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# Contents

**Federal Register**

Vol. 67, No. 118

Wednesday, June 19, 2002

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**Separate Parts In This Issue**



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**Reader Aids**
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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## CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

**7 CFR**
271.....41589
272.....41589
273.....41589
275.....41589
277.....41589
301.....41754

**12 CFR**
28.....41619

**14 CFR**
**Proposed Rules:**
39.....41640

**21 CFR**
**Proposed Rules:**
312.....41642

**23 CFR**
**Proposed Rules:**
450.....41648

**26 CFR**
301.....41621
**Proposed Rules:**
1.....41653

**30 CFR**
917.....41622
**Proposed Rules:**
875.....41756
917.....41653
950.....41656

**31 CFR**
**Proposed Rules:**
501.....41658

**33 CFR**
165.....41625
**Proposed Rules:**
160.....41659

**40 CFR**
180 (2 documents) .....41628, 41802
**Proposed Rules:**
9.....41668
122.....41668
123.....41668
124.....41668
125.....41668

**49 CFR**
1540.....41635
1544.....41635

**50 CFR**
679.....41639
**Proposed Rules:**
17.....41669

# Rules and Regulations

Federal Register
Vol. 67, No. 118
Wednesday, June 19, 2002



## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### 7 CFR Parts 271, 272, 273, 275, and 277

**RIN 0584–AC45**

## Food Stamp Program: Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and Food Stamp Provisions of the Balanced Budget Act of 1997

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** On September 3, 1999, the Department published an interim rule (64 FR 48246) to implement, effective November 2, 1999, two food stamp provisions of the Balanced Budget Act of 1997 (the Balanced Budget Act). The two provisions amended the Food Stamp Act of 1977 (the Food Stamp Act) to enhance State flexibility in exempting portions of a State agency's caseload from the food stamp time limit and to increase significantly the funding available to create work opportunities for recipients who are subject to the time limit. Comments were solicited through November 2, 1999.

On December 23, 1999, the Department published a proposed rule (64 FR 72196) to amend Food Stamp Program (FSP) regulations to incorporate the work provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). This rule proposed making significant changes to current work rules, including requirements for the Food Stamp Employment and Training (E&T) Program and the optional workfare program, as well as simplifying disqualification requirements for failure to comply with work rules. Comments were solicited through February 22, 2000. This rule finalizes both of those rulemakings.

**EFFECTIVE DATE:** This final rule is effective August 19, 2002.

**FOR FURTHER INFORMATION CONTACT:** John Knaus, Chief, Program Design Branch, Program Development Division, Food Stamp Program, FNS, 3101 Park Center Drive, Room 810, Alexandria, Virginia, (703) 305–2519.

**SUPPLEMENTARY INFORMATION:**

### Executive Order 12866

This final rule was determined to be economically significant and was reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

### Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule in 7 CFR part 3105, subpart V and related Notice (48 FR 29115, June 24, 1983), this Program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

### Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the ''Effective Date'' paragraph of this final rule. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted.

### Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Eric M. Bost, Under Secretary for Food, Nutrition, and Consumer Services, has certified that this rule will not have a significant economic impact on a substantial number of small entities. The changes will affect food stamp applicants and recipients who are subject to FSP work requirements. The rulemaking also affects State and local welfare agencies that administer the FSP, to the extent that they must implement the provisions described in this action.

### Unfunded Mandate Analysis

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of UMRA, the Department generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) that impose costs on State, local, or tribal governments or to the private sector of $100 million or more in any one year. Thus this rule is not subject to the requirements of section 202 and 205 of UMRA.

### Executive Order 13132

*Federalism Summary Impact Statement*

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have ''federalism implications,'' agencies are directed to provide a statement for inclusion in the preamble to the regulation describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132.

*Prior Consultation With State Officials*

Prior to drafting the rule, we received input from State and local agencies at various times. Since the FSP is a State administered, Federally funded program, our regional offices have formal and informal discussions with State and local officials on an ongoing basis regarding program implementation and policy issues. This arrangement allows State and local agencies to

provide feedback that forms the basis for many discretionary decisions in this and other FSP rules. In addition, we presented our ideas and received feedback on program policy at various State, regional, national, and professional conferences. Lastly, the comments from State and local officials on both the interim Balanced Budget Act rule and the proposed PRWORA rule were carefully considered in drafting this final rule.

*Nature of Concerns and the Need To Issue This Rule*

State agencies generally want greater flexibility in their implementation of FSP work requirements and in the operation of the E&T Program. State agencies have indicated that providing them this flexibility would greatly enhance their ability to more efficiently administer the FSP. They also want current rules streamlined to allow them to conform to the rules of other means tested Federal programs.

*Extent To Which We Meet Those Concerns*

FNS has considered the impact on State and local agencies. This rule deals mainly with changes required by law and made effective in 1996 and 1997. The effects on State agencies are moderate. While some of the changes result in modest increases in administrative requirements, the overall effect is to lessen the administrative burden by providing increased State agency flexibility in program operation and by allowing State agencies to streamline their program requirements. PRWORA and the Balanced Budget Act required most of the changes made in this rule and the changes were effective upon enactment of these statutes. FNS is not aware of any case where the discretionary provisions of the rule would preempt State law. In addition, we are willing to approve a waiver of any discretionary provision in this rule where: (1) A State agency can demonstrate that its own procedures would be more effective and efficient; (2) providing such a waiver would not result in a material impairment of any statutory or regulatory rights of participants or potential participants; and (3) it would otherwise be consistent with the waiver authority set out at 7 CFR 272.3(c).

**Regulatory Impact Analysis**

*Costs/Benefits*

There are no new effects of implementing the work-related provisions of PRWORA on food stamp recipients. The Regulatory impact analysis associated with the proposed PRWORA rule, published December 23, 1999 (64 FR 72201–72202), contains the expected impact of those provisions. State agencies have already implemented those changes and no further impact is expected following publication of this final rule. Other than the effects of eliminating the maximum slot reimbursement rates, there are no new effects of implementing the work-related provisions of the Balanced Budget Act. The Regulatory Impact Analysis associated with the interim final Balanced Budget Act rule, published September 3, 1999 (64 FR 48252–48254), contained the expected impact of the provisions, which State agencies have already implemented. The provision to eliminate the maximum slot reimbursement rate is expected to increase Food Stamp Program expenditures by a range of $25.3 million to $62.0 million, depending on State agency actions, over the period FY 2002–FY 2012.

*Need for Action—Food Stamp Provisions of the Balanced Budget Act of 1997*

We believe that the regulatory effect of removing the maximum slot rates will have very little effect on State agencies' overall E&T spending patterns, which currently fall into four categories: (1) The 12 alternative reimbursement State agencies currently not bound by reimbursement rates as long as they provide work slots to all ABAWDs willing to comply with the work requirements. Data from the FNS–583 report indicate that if they had been subject to the rates, they would have overspent the maximum slot rates by some 47 percent in FY 2000. (2) Another 12 State agencies that reported spending over their maximum slot rates in FY 2000 and were reimbursed for 50 percent of the amount they overspent from Federal funds. The FY 2000 FNS–583 reports indicate that these State agencies overspent the maximum slot rates by 17 percent that year. (3) Another seven State agencies spending at maximum slot rates. (4) The 22 State agencies that spent under the slot rates in FY 2000.

We assume that both the alternative reimbursement State agencies and the State agencies that have spent under their slot rates will not change their spending patterns. Because alternative reimbursement State agencies' spending was not limited by the maximum slot rates, their spending is not expected to change with the elimination of those rates. Likewise, removing the slot rates will have no impact those State agencies spending under their maximum slot rates.

Removing the slot rates could affect the remaining 19 State agencies that either spent over or exactly at their slot rates in a number of ways. The Federal government reimbursed State agencies that had already spent over their slot rates for 50 percent of the cost, which was some $1.4 million in 2000. If slot rates are removed, and these State agencies do not change their spending patterns, all of the cost would be covered by 100 percent Federal funds. The increase in costs to the Federal government could be an additional $1.5 million. If these State agencies were to increase their spending from 17 percent reported by States that overspent the maximum slot rates to the 47 percent that the alternative reimbursement State agencies spent in 2000, the additional Federal cost could be as much as $3.6 million.

If slot rates are removed, we assume that State agencies that currently spend at 100 percent of their slot rates might increase their spending in one of two ways: either by the 17 percent level of the other State agencies that overspent, or by the 47 percent over the maximum slot rates that the alternative reimbursement State agencies spent. If they were to do the former, the additional Federal cost could be slightly over one-half million dollars; if they were to do the latter, that cost increases to $1.5 million.

The total cost in FY 2003 ranges from $2.3 million if State agencies increase their spending to 117 percent of the maximum to $5.6 million if they increase their spending to 147 percent of the maximum. Allowing for inflation, the 10-year cost ranges from $25.3 to $62 million.

*Need for Action—Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996*

This action is needed to implement the work provisions of Pub. L. 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). These provisions: (1) Establish new disqualification penalties for noncompliance with FSP work requirements; (2) permit certain State agencies to lower the age at which a child exempts a parent or caretaker from food stamp work rules; (3) revise and streamline the E&T Program; (4) provide State agencies the option of using a household's food stamp benefits to subsidize a job for a household member participating in a work supplementation or support program; and (5) permit qualifying States to provide certain

households with cash in lieu of food stamps.

*Benefits*

State agencies will benefit from the provisions of this rule because they streamline FSP work requirements, simplify the disqualification requirements for failure to comply with work rules, and provide greater flexibility for State agencies to operate their employment and training programs. Removing the maximum slot rates will benefit States by enhancing administrative simplification and increasing program access to greater numbers of recipients.

**Impact of Removing Maximum Reimbursement Rates Fiscal years 2003—2012**
**(Dollars in millions)**

| FISCAL YEAR | 03 | 04 | 05 | 06 | 07 | 08 | 09 | 10 | 11 | 12 | 03-12 |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **For States spending over max slot rates in FY 2000:** | | | | | | | | | | | |
| If no change in spending (already at 17%) | $1.7 | $1.7 | $1.7 | $1.8 | $1.8 | $1.9 | $1.9 | $2.0 | $2.0 | $2.1 | $18.6 |
| If spending increases 47% over max slot rates | $3.9 | $ 4 | $ 4 | $4.2 | $4.3 | $4.4 | $4.5 | $4.6 | $4.7 | $4.8 | $43.4 |
| **For States spending at max slot rates in FY 2000:** | | | | | | | | | | | |
| If spending increases by 17% | $.6 | $.6 | $.6 | $.6 | $.7 | $.7 | $.7 | $.7 | $.7 | $.8 | $6.7 |
| If spending increases by 47% | $1.7 | $1.7 | $1.7 | $1.8 | $1.8 | $1.9 | $1.9 | $2.0 | $2.0 | $2.1 | $18.6 |
| **Total if spending is 1.17% of maximum** | $2.3 | $2.3 | $2.3 | $2.4 | $2.5 | $2.6 | $2.6 | $2.7 | $2.7 | $2.9 | $25.3 |
| **Total if spending is 1.47% of maximum** | $5.6 | $5.7 | $5.7 | $6.0 | $6.1 | $6.3 | $6.4 | $6.6 | $6.7 | $6.9 | $62.0 |

**Paperwork Reduction Act**

This final rule contains information collections which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3507).

The reporting and recordkeeping burdens associated with the 15 percent exemption and the increased funding for State E&T programs authorized by the Balanced Budget Act and addressed in this rule necessitated a revision to a previously approved information collection activity, the Employment and Training Program Report (FNS–583), approved under OMB No. 0584–0339. Because the Balanced Budget Act mandated implementation of the food stamp provisions addressed in this rule effective October 1, 1997, without regard to whether regulations were promulgated to implement them, FNS submitted an emergency request to OMB on February 17, 1998, to revise the information collection for the FNS–583 form to reflect the requirements of the statute. FNS estimated the total annual burden hours associated with the revised FNS–583 to be 195,363 hours—182,643 hours for the work registration process, 2,762 hours for the 15 percent ABAWD exemption, and 9,958 hours for the E&T funding requirements. OMB approved the burden estimate for the revised form for six months, with an expiration date of August 31, 1998.

On April 27, 1998, FNS issued a notice in the **Federal Register** (63 FR 20567) describing in detail the revised collection of information and requesting comments. FNS received no comments from the general public or other public agencies about the information collection.

On September 23, 1998, FNS received an extension of OMB's approval of the revised burden estimate for the FNS–583 through September 30, 2001.

On June 8, 2001, FNS issued a notice in the **Federal Register** (66 FR 30877) inviting the general public and other public agencies to comment on the proposed extension of the information collection previously approved. FNS received one comment, which suggested that FNS provide State agencies the means to electronically submit their FNS–583 reports, and that FNS create an online help system with detailed instructions for completing the form. No action was necessary because State agencies already have the ability to submit their FNS–583 reports electronically via the Food Stamp Program Integrated Information System (FSPIIS). Additionally, FSPIIS contains a through help system, recently revised, which provides detailed instructions for completing each area of the FNS–583.

On September 12, 2001, FNS submitted to OMB a request to approve a revised total annual burden of 190,541 hours associated with the FNS–583: (1) 84,657 hours for household members participating in the work registration process; (2) 42,328 hours maintaining data on work registration; (3) 708 hours tracking the numbers of ABAWDs exempted under the 15 percent exemption allowance; (4) 60,800 hours recording ABAWD E&T activities; and (5) 2,048 hours compiling and recording data on the FNS–583.

On December 21, 2001, OMB approved an extension of OMB No. 0584–0339 through December 31, 2004.

Sections 272.2 and 273.7 contain information collection requirements. The Food and Nutrition Service submitted a copy of this section to OMB for its review.

The regulations at 7 CFR 272.2 require that State agencies plan and budget program operations and establish objectives for each year. Section 273.7 contains requirements for the State

Employment and Training Plan, one of the required planning documents. In the interest of State flexibility, the PRWORA provisions addressed in this rule deleted State E&T planning requirements for describing the intensity of E&T services, conciliation procedures, and Statewide limits for dependent care reimbursements, while adding the requirement that State agencies provide a description of their mandatory disqualification procedures and periods for noncompliance with FSP work requirements.

The respondents are 53 State agencies and they are required to respond once a year. It is estimated that the total annual reporting burden is 3,768 hours.

The PRWORA provisions addressed in this rule deleted reporting burdens in the interest of State flexibility, while adding a new burden associated with each State agency's mandatory disqualification procedures. Thus, the overall reporting and recordkeeping burden for this proposed information collection is unchanged.

PRWORA provided State agencies the option of implementing work supplementation or support programs. In these programs the cash value of public assistance benefits, plus food stamps, is provided to an employer as a wage subsidy to be used for hiring and employing public assistance recipients. This rule proposes to add the work supplementation or support plan, as required at § 273.7(l)(1), to the planning requirements at 7 CFR 272.2.

The potential respondents are any of the 53 State agencies that may opt to initiate a work supplementation or support program. The one-time burden associated with a State agency creating a plan for a work supplementation or support program is estimated to be 100 hours. However, since no State agency has opted to initiate a work supplementation or support program since the enactment of PRWORA, it is anticipated that this provision will not change the burden associated with this information collection.

In the proposed rule dated December 23, 1999 (64FR72196) at page 72209, FNS solicited comments from organizations and individuals on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and the information to be collected; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments were directed to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC 20503; Attention Desk Officer for the Food and Nutrition Service.

The comment period closed February 22, 2000. OMB did not receive any comments concerning the proposed information collection requirement.

The information collection requirements contained in this rule are currently approved under OMB control number 0584–0339. FNS is in the process of revising these requirements with the intent of reducing administrative burden and accommodating the elimination of the maximum slot reimbursement rate. FNS plans to request OMB approval of these revisions after soliciting public comment via a **Federal Register** notice.

**Background**

In August 1996, President Clinton signed into law the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, or PRWORA (Pub. L. 104–193). PRWORA—popularly known as ''welfare reform''—contained several FSP work-related provisions that strengthen work requirements, promote personal responsibility, streamline E&T requirements, and greatly increase State flexibility.

Section 815 of PRWORA dealt with disqualification for noncompliance with FSP work requirements. It added to the list of ineligible individuals at section 6(d)(1) of the Food Stamp Act those who: (1) Refuse without good cause to provide sufficient information to allow a determination of their employment status or job availability; (2) voluntarily and without good cause quit their job (previously limited to heads of households); (3) voluntarily and without good cause reduce their work effort and, after the reduction, work less than 30 hours a week; and (4) fail to comply with the workfare rules in section 20 of the Food Stamp Act (7 U.S.C. 2029). Section 815 removed the requirement that the entire food stamp household be disqualified if the head of the household is disqualified. Instead, it provided States the option to disqualify the entire household if the head of the household is disqualified. Section 815 established new mandatory minimum disqualification periods for individuals who fail to comply with work requirements. It required the Secretary of Agriculture (the Secretary) to determine the meanings of good cause, voluntary quit, and reduction of work effort. It required States to determine: (1) The meaning of other terms related to FSP work requirements; (2) the procedures for determining compliance with work requirements; and (3) whether an individual is actually complying with work requirements. Lastly, Section 815 specified that States may not use meanings, procedures, or determinations that are less restrictive on food stamp recipients than comparable meanings, procedures, or determinations are on recipients of assistance under State programs funded under title IV–A of the Social Security Act (title IV–A) (42 U.S.C. 601 et seq).

Section 817 of PRWORA streamlined E&T administrative requirements for States by: (1) Requiring E&T components to be delivered through a statewide workforce development system, if available; (2) expanding the existing State option to apply E&T requirements to applicants (previously limited to job search); (3) eliminating the requirement that job search components be comparable with those operated under title IV–A; (4) removing requirements for work experience components that mandated they serve a useful public service and that they use a participant's prior training, experience, and skills; (5) removing specific Federal rules as to States' authority to exempt categories of individuals and individuals from E&T requirements, as well as removing the requirement that such exemptions be evaluated no less often than at each certification or recertification of the affected food stamp case; (6) deleting outdated language concerning applications by States to provide priority service to volunteer E&T participants; (7) removing the requirement that States permit, to the greatest practicable extent, work registrants exempted from E&T, as well as E&T participants who comply with or are in the process of complying with program requirements, to participate in E&T, while maintaining the States' option to permit voluntary participation; (8) removing the requirement for conciliation procedures to resolve disputes involving participation in E&T; (9) removing the requirement that States' limits for payments or reimbursements of dependent care expenses to E&T participants must be at least as high as the FSP dependent care deduction cap; (10) removing the requirements for E&T performance standards; (11) adding the

provision that the amount of funds States use to provide E&T services to participants receiving benefits under a State program funded under title IV–A cannot exceed the amount of funds, if any, States used in fiscal year (FY) 1995 to provide E&T services to participants who were receiving benefits under title IV–A; and (12) removing the Secretary's authority to withhold funds from States for failure to comply without good cause with E&T requirements.

Three other PRWORA provisions added new language to the Food Stamp Act. Section 816 permitted certain States to lower the age at which a child exempts a parent/caretaker from food stamp work rules. Section 849 provided States the option of using a household's food stamp benefits to subsidize a job for a household member participating in a work supplementation program. Section 852 permitted qualifying States to provide certain households with cash in lieu of food stamps.

Additionally, PRWORA made significant changes to the workfare provisions at section 20 of the Food Stamp Act. It removed the States' ability to comply with section 20 by operating a workfare program under title IV–A. It removed the provision that permitted States to combine the value of a household's food stamp allotment with the value of assistance received by the household from a program under title IV–A in order to determine the number of monthly hours of participation required of those households in a title IV–A community work experience program. Lastly, it eliminated disqualification provisions specific to the optional workfare program and incorporated noncompliance with workfare into the disqualification provisions governing noncompliance with FSP work requirements.

PRWORA also contained major changes in the requirements for Federal financial participation in the E&T program. Subsequently, the Balanced Budget Act further amended those requirements.

On August 5, 1997, the President signed into law the Balanced Budget Act. The Balanced Budget Act included two provisions addressed in this final rule. The first provision provided State agencies the authority to exempt up to 15 percent of a State agency's caseload that is subject to the food stamp time limit at section 6(o)(2) of the Food Stamp Act of 1977. The second provision provided additional funding for administration of the E&T Program.

The Department received a combined total of 234 comments from eleven commenters on the interim Balanced Budget Act rule and 24 commenters on the proposed PRWORA rule. The Department is grateful to each commenter for taking the time and effort to respond.

We carefully reviewed and considered each comment while preparing this final rule for publication. We have addressed significant comments received in response to the regulatory changes proposed in the interim and proposed rulemakings. We will not address comments that were not germane to the amendments to the Food Stamp Act contained in PRWORA and the Balanced Budget Act or to resulting changes to the Federal regulations contained in the proposed rule. A number of comments supported our proposed changes. However, we will not discuss those in great detail.

Provisions of the interim and proposed rulemakings that received no comment are not addressed in this rule. Those provisions are adopted as final without change. For an explanation of those provisions, please refer to the interim and proposed rulemakings.

**Program Work Requirements**

Current regulations at 7 CFR 273.7 require that all physically and mentally fit food stamp recipients over the age of 15 and under the age of 60 who are not otherwise exempted be registered for work by the State agency at the time of application and once every 12 months thereafter. Work registrants are required to participate in an E&T program if assigned by the State agency, provide information regarding employment status and availability for work, report to an employer if referred, and accept a bona fide offer of suitable employment at a wage no less than the applicable State or Federal minimum wage, whichever is highest.

Failure to meet these requirements without good cause results in a 2-month disqualification. If the noncompliant individual is the head of the household, the entire household is disqualified for two months. Otherwise, only the individual is disqualified.

Additionally, if the head of the household voluntarily quits a job of 20 or more hours a week, without good cause, 60 days or less prior to applying for food stamps, or at any time thereafter, the entire household is disqualified for 90 days.

Eligibility may be reestablished by the household during a disqualification period if the head of the household becomes exempt from the work registration requirement, is no longer a member of the household, or complies with the requirement in question. Disqualified individuals may reestablish eligibility by becoming exempt from the work registration requirement or by complying with the requirement in question.

Certain food stamp recipients are exempt from work registration requirements. Among these exempt individuals are those currently subject to and complying with a work registration requirement under title IV–A or the Federal-State unemployment compensation system. If these individuals fail to comply with any work requirement to which they are subject that is comparable to a FSP work requirement, they are subject to disqualification.

In accordance with section 815 of PRWORA, which contains amendments to section 6(d)(1) of the Food Stamp Act, the rulemaking proposed several changes to current regulations. In this rule we are addressing only those proposed changes that received comment. Provisions of the proposed rulemaking that received no comment are adopted as final without change.

*Work Registrant Requirements*

The current regulation at 7 CFR 273.7(a) contains the work registration requirement for nonexempt food stamp household members.

Current regulations at 7 CFR 273.7(e) list the responsibilities and requirements for work registrants.

Current regulations at 7 CFR 273.22 contain FSP workfare participation requirements for households. 7 CFR 273.22(f)(6) provides for penalties for failure to comply with workfare requirements.

Section 815 of PRWORA aligned workfare penalties with other work penalties. It amended section 20 of the Food Stamp Act by removing workfare disqualification provisions, and further amended section 6(d)(1) by including refusal without good cause to comply with section 20 of the Food Stamp Act as a reason for disqualification.

The Department proposed to amend 7 CFR 273.22(f) by removing paragraph (6), Failure to Comply, and to amend 7 CFR 273.7(e) by adding as a work registrant requirement participation in a workfare program if assigned.

The Department further proposed to incorporate the work registrant requirements listed in 7 CFR 273.7(e) into 7 CFR 273.7(a), redesignate it 7 CFR 273.7(a)(1) and rename it *work requirements.*

The Department also proposed to incorporate the participation requirements for strikers listed in 7 CFR 273.7(j); the requirements for registration of certain PA, GA, and refugee households listed in 7 CFR 273.7(k); and the provisions for

applicants applying for SSI and food stamps under § 273.2(k)(1)(i), listed in 7 CFR 273.7(l), into 7 CFR 273.7(a), and redesignate them 7 CFR 273.7(a)(4), (a)(5), and (a)(6) respectively.

Lastly, the Department proposed to make the following changes to 7 CFR 273.7: (1) Redesignate the current provisions at 7 CFR 273.7(f), (g), (h), (i), (m), and (n) as 7 CFR 273.7(e), (f), (g), (h), (i), and (j) respectively; (2) delete the current provisions at 7 CFR 273.7(o) and (p) and add new provisions, designated 7 CFR 273.7(k) and (l); (3) redesignate the provisions for the optional workfare program at 273.22 as 7 CFR 273.7(m); and (4) remove 7 CFR 273.22.

Three commenters questioned the language in sections 273.7(a)(1)(ii) and 273.7(a)(1)(iii) that requires each household member not exempt from Program work requirements to participate in an E&T program or in an optional workfare program if assigned by the State agency, *to the extent required by the State agency.* The commenters believe the language further empowers State agencies to create definitions related to work requirements.

Section 815 of PRWORA added the phrase ''to the extent required by the State agency'' to the E&T participation requirement contained in section 6(d)(1)(A)(ii) of the Food Stamp Act. Its purpose is to emphasize State agency flexibility in setting participation requirements for E&T program components, within the limits specified in the Food Stamp Act. The Department has no discretion to remove this phrase from the E&T participation requirement. However, we agree that adding such language to the workfare program participation requirement at 273.7(a)(1)(iii) could result in a State agency inadvertently assigning food stamp household members to participate in workfare beyond the maximum legal limit of the number of hours resulting from dividing the value of the household's monthly food stamp allotment by the higher of the Federal or applicable State minimum wage. In this final rulemaking we are, therefore, removing the phrase ''to the extent required by the State agency'' from section 273.7(a)(1)(iii).

No further comments germane to the proposed changes were received. With the change noted above, the Department is adopting in this final rulemaking the revisions as proposed.

*Administrative Responsibilities*

Current regulations at 7 CFR 273.7(m) assign to State agencies the responsibility for determining the existence of good cause in instances when an individual fails or refuses to comply with FSP work requirements. 7 CFR 273.7(n) assigns to State agencies the responsibility for determining whether or not a voluntary quit occurred.

Section 815 of PRWORA amended the Food Stamp Act by adding a new provision, section 6(d)(1)(D), Administration. Section 6(d)(1)(D) assigned to the Secretary responsibility for determining the meanings of ''good cause,'' ''voluntary quit,'' and ''reduction of work effort,'' and assigned to State agencies the responsibility for determining: (1) The meaning of all other terms relating to work requirements; (2) the procedures for determining whether an individual is in compliance with work requirements; and (3) whether an individual is actually in compliance with work requirements.

However, section 6(d)(1)(D) prohibits State agencies from assigning a meaning, procedure, or determination that is less restrictive on food stamp recipients than a comparable meaning, procedure, or determination under a State program funded under title IV–A.

The Department proposed to amend 7 CFR 273.7(a) by assigning to FNS the responsibility for determining the meaning of ''good cause,'' ''voluntary quit,'' and ''reduction of work effort'' in regard to FSP work requirements. The Department further proposed to amend 7 CFR 273.7(a) by assigning to the State agency responsibility for determining the meaning of all terms related to FSP work requirements; for establishing the procedures for determining whether an individual is in compliance with work requirements; and for determining whether an individual is in actual compliance with work requirements. The State agency may not use a meaning, procedure, or determination that is less restrictive on food stamp recipients than a comparable meaning, procedure, or determination is on recipients of a State program funded under title IV–A. The Department proposed to incorporate these provisions in new paragraphs, 7 CFR 273.7(a)(2) and 7 CFR 273.7(a)(3) respectively.

Three commenters recommended that, for clarity, we cross-reference the subparagraphs of 273.7 that contain the good cause, voluntary quit, and reduction of work effort provisions. The Department has added the cross-references to the final rule. Otherwise, the Department is adopting in this final rulemaking the revisions as proposed.

*Household Ineligibility*

Current regulations at 7 CFR 273.7(g)(1) require that an individual, other than the head of household, who fails or refuses without good cause to comply with FSP work requirements be disqualified from participation. However, if the head of household fails or refuses without good cause to comply, the entire household must be disqualified.

Section 815 of PRWORA amended section 6(d)(1) of the Food Stamp Act by removing the requirement that the entire household be disqualified if the head of the household fails or refuses without good cause to comply. Instead, section 815 provided State agencies the option to disqualify the entire household if the head of household fails or refuses without good cause to comply with work requirements. It limited the length of such an optional household disqualification to the duration of the disqualification period applied to the individual or 180 days, whichever is shorter.

The Department proposed to amend redesignated 7 CFR 273.7(f) by eliminating the requirement in paragraph (1) that the entire household be disqualified if the head of the household fails to comply. The Department further proposed to add a new paragraph (4), *Household Ineligibility,* to provide that a State agency has the option to disqualify the entire household if the head of the household becomes ineligible to participate in the FSP for failure to comply with work requirements. If the State agency chooses this option, it may disqualify the household for the duration of ineligibility of the head of the household, or for 180 days, whichever is less.

One commenter recommended that the State keep the current requirement that the entire household be disqualified if the head of household is disqualified. The State agency option to disqualify the entire household if the head of the household is disqualified is a statutorily mandated provision. The Department has no discretion to make such an action mandatory.

Another commenter suggested that the final rule clarify that, when the entire household is disqualified when the head of household is disqualified, the household's disqualification must end if the head of the household becomes exempt from food stamp work requirements and his or her disqualification ends. The Department agrees that this clarification would be helpful. The final rule is amended to

include language to that effect at 273.7(f)(5)(iii)(C).

No further comments on this proposed amendment were received. With the changes noted above, the Department is adopting in this final rulemaking the revisions as proposed.

*Disqualification Periods*

Current regulations at 7 CFR 273.7(g)(1) establish a 2 month disqualification period to be imposed for failure or refusal without good cause to comply with FSP work requirements.

Section 815 of PRWORA amended sections 6(d)(1)(a) and (b) of the Food Stamp Act to establish mandatory disqualification periods—based on the frequency of the violation—for individuals who fail to comply with FSP work requirements. For the first violation, the individual is disqualified until the later of the date the individual complies with FSP work requirements, 1 month, or, at State agency option, up to 3 months. For the second violation, the individual is disqualified until the later of the date the individual complies with FSP work requirements, 2 months, or a period—determined by the State agency—not to exceed 6 months. For the third or subsequent violation, the individual is disqualified until the later of the date the individual complies with FSP work requirements; 6 months; a date determined by the State agency; or, at the option of the State agency, permanently.

The Department proposed to amend redesignated 7 CFR 273.7(f) by deleting reference to a 2 month disqualification period and by inserting a new paragraph, 7 CFR 273.7(f)(2), *Disqualification Periods*. The new paragraph (2) provides for minimum mandatory disqualification periods for individuals who fail or refuse without good cause to comply with work requirements. State agencies are free to elect which disqualification period they institute for each level of noncompliance. However, each State agency must apply its disqualification policy uniformly, statewide.

We further proposed to add a new paragraph (d)(xiii) under 7 CFR 272.2, *Plan of operation*. Paragraph (d)(xiii) contains the requirement for each State agency's disqualification policies.

One commenter suggested that, because food stamp regulations require State agencies to retain program records for only 3 years, the final rule should permit State agencies to disregard events that took place more than 3 years previously when determining the length of the disqualification to be imposed under section 273.7(f)(2). We disagree. The Food Act makes it very clear that 3 years is a minimum period. Section 11(a) of the Food Stamp Act specifies that State agencies must keep ''such records as may be necessary to ascertain whether the program is being conducted in compliance with the provisions of this Act and the regulations issued pursuant to this Act. Such records shall be available for inspection and audit at any reasonable time and shall be preserved for such a period of time, not less than three years, as may be specified in the regulations issued pursuant to this Act.'' PRWORA requires State agencies to establish successively longer disqualification periods for each additional violation of FSP work requirements (up to the third violation). The Department has no authority to permit State agencies to disregard earlier violations when determining the disqualification period for a subsequent violation.

With this change, the proposed redesignated 7 CFR 273.7(f) is adopted in the final rule.

*Good Cause*

The current regulations at 7 CFR 273.7(m) assign to State agencies responsibility for determining good cause when an individual fails to comply with FSP work registration, E&T, and voluntary quit requirements. The regulations include as good cause circumstances beyond the individual's control. One example cited is the lack of adequate childcare for children ages 6 to 12.

The current regulations at 7 CFR 273.7(n)(3) contain the good cause requirements specifically concerning voluntary quit, as well as the procedures for verifying questionable information concerning voluntary quit.

Section 815 of PRWORA amended section 6(d)(1) of the Food Stamp Act by deleting language that included the lack of adequate child care for children between 6 and 12 as good cause for refusing to accept an offer of employment, and by assigning to the Secretary specific authority to define the meaning of good cause. We believe that Congress did not intend to eliminate lack of adequate child care as a valid good cause reason, thereby forcing parents to choose between the well-being of their children and the demands of FSP work requirements. Instead, by deleting this reference to a very specific, single instance of noncompliance, we believe Congress intended to eliminate any confusion about applying good cause criteria equitably across-the-board to all FSP work requirements. Therefore, lack of adequate childcare remains as a good cause reason for noncompliance.

Although current good cause regulations remain basically unchanged, the Department proposed to take the opportunity to amend redesignated 7 CFR 273.7(i) and redesignated 7 CFR 273.7(j) by combining the provisions under the specific heading ''Good Cause'' at redesignated 7 CFR 273.7(i). We also proposed to add language to redesignated 7 CFR 273.7(i) reminding State agencies that it is not possible for the Department to enumerate each individual circumstance that should or should not be considered good cause. State agencies must consider all facts and circumstances in each individual case concerning the determination of good cause.

Three commenters recommended that Section 273.7(i)(3)(vii) be amended. This provision states that acceptance of a bona fide offer of employment of more than 20 hours a week (or employment paying at least the Federal minimum wage equivalent of 20 hours a week) that, because of circumstances beyond the individual's control, subsequently either does not materialize or results in employment of less than 20 hours a week (or earnings of less than the Federal minimum wage equivalent of 20 hours a week) constitutes good cause for leaving employment. The commenters suggested that changing the number of hours to 30 a week would conform the good cause provision to the level of work effort necessary to exempt an individual from FSP work requirements and to the voluntary quit and reduction of work effort thresholds. The Department agrees. The final rule is amended accordingly.

*Voluntary Quit*

Current regulations at 7 CFR 273.7(n) contain the procedures for disqualifying a household whose head voluntarily quits a job without good cause 60 days or less before applying for food stamps, or at any time thereafter. For purposes of establishing voluntary quit, a ''job'' is considered employment of 20 or more hours per week, or employment that provides weekly earnings at least equivalent to the Federal minimum wage multiplied by 20 hours. A Federal, State, or local government employee dismissed from employment because of participation in a strike is considered to have voluntarily quit without good cause.

In the case of applicant households, if the State agency determines that a voluntary quit by the head of household was without good cause, the household's application for benefits will be denied and it will not be eligible for benefits for 90 days, starting with the date of the quit.

In the case of participating households, if the State agency determines that a head of household voluntarily quit a job while participating in the FSP, or discovers that a quit occurred within 60 days prior to application or between application and certification, the household will be disqualified from participation for 90 days, beginning with the first of the month after all normal adverse action procedures are completed.

Following the end of a voluntary quit disqualification, a household may reapply and, if otherwise eligible, begin participation in the FSP. Eligibility may be reestablished during a disqualification period and the household may, if otherwise eligible, resume participation if the head of household secures new employment comparable to the job that was quit, or leaves the household. Eligibility may also be reestablished if the head of household becomes exempt from work registration. If the disqualified household splits, the disqualification follows the head of household. If that individual becomes head of a new household, that household must serve out the balance of the disqualification period.

If a disqualified household applies for participation in the third month of its disqualification, it does not have to reapply in the next month. The State agency must use the same application to deny benefits in the remaining month of disqualification and to certify the household for any subsequent month(s) if it is otherwise eligible.

Section 815 of PRWORA amended section 6(d)(1) of the Food Stamp Act by removing the requirement that only the head of household is subject to voluntary quit. As with all the other sanctionable actions listed in section 6(d)(1)(A), each individual household member was made subject to disqualification for a voluntary quit. The State agency was afforded the option of disqualifying the entire household if the quitter is the head of household.

Section 6(d)(1) was further amended by eliminating the 90-day disqualification period for voluntary quit. Penalties for voluntary quit are based on the minimum mandatory disqualification provisions contained in PRWORA.

Lastly, section 815 of PRWORA amended section 6(d)(1) by adding the provision that an individual who voluntarily and without good cause reduces work effort and, after the reduction, works less than 30 hours per week, must be disqualified.

The Department proposed to retain the 60-day pre-application period for establishing voluntary quit and to apply the same standard when determining reduction of work effort for applicants. The voluntary quit and reduction in work effort provisions aim to deter individuals with reasonable income from intentionally ending or reducing that income to qualify for food stamps or to increase coupon allotments. We felt that 60 days is a reasonable time span to use to gauge intent.

One commenter suggested that the 60-day period for establishing voluntary quit or reduction in work effort is too long a time for caseworkers to obtain and evaluate as reliable verifications of potential good cause reasons for job quit or reduction in work effort.

The Department agrees. Because of fluctuating work hours, personnel turnover, and other variables, the 60-day period may pose verification problems for State agencies. Reducing the period to 30 days will make it much easier for a caseworker to obtain reliable good cause information, without degrading the seriousness or the impact of good cause and reduction in work effort determinations. However, since some State agencies are committed to the 60-day ''look-back'' period for establishing voluntary quit and reduction of work effort, the Department believes it should afford each State agency the option to determine which period best suits its particular needs. The final rule is therefore amended to provide State agencies the option of establishing a period between 30 and 60 days for determining voluntary quit and reduction in work effort.

We also proposed to increase the 20-hour/equivalent Federal minimum wage figure used in defining voluntary quit to 30 hours. Increasing the number of hours to 30 provides a logical connection between voluntary quit and the reduction of work effort threshold mandated by Congress. The 30-hour figure also conforms to the number of hours of work required to exempt an employed recipient from FSP work requirements. The Department welcomed comments on this issue. None were received.

Congress clearly stated that any reduction in hours of employment to less than 30 hours a week without good cause must be penalized. We do not believe Congress intended that a minimum wage equivalent of 30 hours be considered when establishing voluntary reduction in work hours. The Department proposed to make this clear in the rule. We also proposed to incorporate good cause for reduction of work effort into the good cause provision at redesignated 7 CFR 273.7(i). There were no germane comments concerning the reduction in work effort provision.

One commenter questioned the current regulatory requirement that a claim be established in certain instances of voluntary quit or reduction in work effort. If a voluntary quit or reduction in work effort occurs in the last month of a certification period, or the State agency establishes voluntary quit or reduction in work effort in the last 30 days of the certification period, and the individual does not apply for food stamp benefits by the end of the certification period, the State agency must establish a claim for the benefits received by the individual for the number of months equal to the mandatory disqualification period. The commenter believes this requirement is confusing, places an undue claims burden on State agencies, and is inconsistent with penalties for noncompliance with all other FSP work requirements. We agree. We are taking this opportunity to revise the voluntary quit language by eliminating the requirement to establish claims in such situations. This final rule will clarify that the appropriate mandatory disqualification period is to be imposed after timely and adequate notice of adverse action is taken, regardless of whether the individual reapplies for food stamps.

No further comments on the voluntary quit provision were received. With the revisions discussed above, this final rulemaking adopts these provisions.

**Caretaker Exemption**

Current regulations at 7 CFR 273.7(b)(iv), pursuant to section 6(d)(2)(B) of the Food Stamp Act, exempt from FSP work requirements a parent or other household member who is responsible for the care of a dependent child under six. Prior to the enactment of PRWORA, eight State agencies had submitted requests to waive this regulation to require caretakers of children less than six years old to participate in their proposed welfare reform demonstration projects. The purpose of these waivers was to conform FSP and title IV–A work requirements in order to provide the State agencies maximum flexibility in the operation of their demonstrations. The Department believed that the States' requests violated section 17(b) of the Food Stamp Act, which prohibited the approval of a waiver that would lower or further restrict the benefit levels of food stamp recipients. The Department concluded that the approval of these waivers would subject food stamp

recipients to work requirements and possible sanctions that they would not be subject to under regular program rules. Therefore, the waivers were denied.

Section 816 of PRWORA amended section 6(d)(2) of the Food Stamp Act by adding an option to allow State agencies that previously requested a waiver to lower the age of the qualifying dependent child to less than six. Under this option, State agencies that had requested such a waiver, but were denied before August 1, 1996, could lower the age of a qualifying dependent child to between one and six years. This option could be exercised for a period of not more than three years.

The Department proposed to amend 7 CFR 273.7(b)(iv) to include a provision offering this option to the State agencies of Alabama, Kansas, Maryland, Michigan, North Dakota, Virginia, Wisconsin, and Wyoming. According to FNS records, these were the State agencies that were denied the exemption waivers before August 1, 1996. The Department proposed to allow these State agencies, upon submission of written notification to the Department, to lower the age of a dependent child that qualifies a parent or other household member for an exemption to between one and six, for a maximum of 3 years. The State agencies of Alabama, North Dakota, and Virginia never implemented the option. The remaining eligible State agencies implemented the option on the following dates: Kansas—March 3, 1997; Maryland—November 11, 1996; Michigan—November 1, 1996; Wisconsin—January 1, 1997; and Wyoming—January 1, 1997.

Commenters pointed out that, like all other PRWORA provisions for which a specific effective date was not specified, the caretaker option should have been made effective upon enactment of the law on August 22, 1996. Therefore, they believe the 3 years have passed and the provision is obsolete. They recommend that it be omitted from the final rule.

The Department agrees that the effective date for the caretaker option should have been established as August 22, 1996. Therefore, the 3-year implementation period has expired and the provision is obsolete. In this final rulemaking, the Department is deleting the proposed caretaker exemption at 273.7(b)(iv)(B), and is redesignating 273.7(b)(iv)(A) as 273.7(b)(iv).

**Employment and Training Program**

Section 817 of PRWORA amended section 6(d)(4) of the Food Stamp Act. Section 6(d)(4) contains provisions for the E&T Program. In the December 23, 1999, PRWORA rulemaking the Department proposed several changes to current E&T regulations. In this rule we are addressing only those proposed changes that received comment. Provisions of the proposed rulemaking that received no comment are adopted as final without change.

*Job Search and Job Search Training*

Current regulations at 7 CFR 273.7(f)(1)(i) authorize a State agency to offer a job search component comparable to that required of a program under title IV–A. Aside from the initial applicant job search period, discussed above, the work registrant can be required to conduct a job search of up to eight weeks (or an equivalent period) in any consecutive 12-month period. The first such 12-month period begins at any time following the close of the initial period.

Section 817 of PRWORA amended section 6(d)(4)(B) of the Food Stamp Act by deleting the title IV–A comparability requirement for job search.

The Department proposed to amend redesignated 7 CFR 273.7(e)(1)(i) by deleting the requirement that a State agency's E&T job search component must be comparable to its title IV–A job search component.

In keeping with the State agency flexibility offered under PRWORA, the Department further proposed to amend redesignated 7 CFR 273.7(e)(1)(i) by removing the annual 8-week job search limitation. Each State agency will be free to conform its E&T job search to that of its title IV–A work program, or to establish job search requirements that, in the State agency's estimation, will provide participants a reasonable opportunity to find suitable employment. However, the Department agrees with one commenter who believes that if a reasonable period of job search does not result in employment, placing the individual in a training or education component to improve job skills will likely be more productive. The final rule includes a statement to that effect.

Lastly, the Department proposed to amend redesignated 7 CFR 273.7(e)(1)(i) by adding that, in accordance with section 6(o)(1)(A) of the Food Stamp Act and 7 CFR 273.24 of the regulations, a job search program operated as a component of a State's E&T program *does not meet* the definition of work program relating to the participation requirements necessary to maintain eligibility for able-bodied adults without dependents (ABAWDs) subject to the 3-month food stamp time limit. The Department proposed to add this same notice at redesignated 7 CFR 273.7(e)(1)(ii), which describes job search training programs. These additions also specify that the prohibitions against E&T job search and job search training do not apply to such programs operated under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 *et seq.*) (the WIA), or under section 236 of the Trade Act of 1974 (19 U.S.C. 2296) (the Trade Act). Further, we proposed to amend redesignated 7 CFR 273.7(e)(1) to add that job search or job search training activities, when offered as part of other E&T program components, are acceptable as long as those activities comprise less than half the required time spent in the other components.

Section 273.7(e)(1)(ii) explains that a reasonable job search training and support activity includes job skills assessments, job finding clubs, training in techniques for employability, job placement services, or other direct training or support activities, including educational programs determined by the State agency to expand the job search abilities or employability of those subject to the program. A commenter urged the Department to provide a basis for evaluating whether or not a local district's job search requirements are, in fact, reasonable under the circumstances, and whether or not they are designed to effectively assist individuals in obtaining employment. They believe the final rule should clarify that when a local district's program requirements are unreasonable, individuals may not be disqualified because they do not participate. The Department disagrees. The State agency is in the best position to evaluate reasonableness for its clientele and local labor markets. Each State agency must be permitted to establish what it believes is a reasonable and effective program for its circumstances. However, in cases where the Department determines that a State agency's requirements are unreasonable, it will, in accordance with the authority granted it under section 6(d) of the Food Stamp Act, require the State agency to amend its practices.

No other comments were received concerning the proposed amendments. The Department is adopting in this final rulemaking the revisions as proposed.

*Workfare*

Current regulations at 7 CFR 273.7(f)(1)(iii) authorize assignment to workfare components operated in accordance with section 20 of the Food Stamp Act and 7 CFR 273.22.

As part of a workfare program, the Food Stamp Act permits operating agencies to establish a job search period

of up to 30 days following certification prior to making a workfare assignment. During this period, the participant is expected to look for a job. The job search period may only be conducted at certification, not at recertification. This job search activity is part of the workfare assignment and not a job search ''program.'' Therefore, participants are to be considered as participating in and complying with the requirements of workfare, thereby satisfying the ABAWD work requirement.

The Department proposed to amend redesignated 7 CFR 273.7(e)(1)(iii) to include a statement that makes it clear that the job search period authorized by State agencies for workfare components is not a job search ''program'' and that participants are considered to be participating in and complying with the requirements of workfare.

A commenter recommended that the reference to certification in this section, as the permissible starting point for the 30-day job search phase of workfare, be removed in order to authorize assignment of applicants to workfare job search. Section 20(e) of the Food Stamp Act allows the operating agency to permit a job search period, prior to making workfare assignments, *following a determination of eligibility.* The language of the Food Stamp Act is very specific as to the time frame in which workfare job search is permitted. The Department has no discretion to make the recommended change. However, as discussed above, under section 6(d)(4)(B) of the Food Stamp Act, the State agency may impose a job search requirement on a program applicant at the time of application, for a period adequate to meet program goals.

No other comments were received concerning the proposed amendments. The Department is adopting in this final rulemaking the revisions as proposed.

*Federal Financial Participation*

Section 817 of PRWORA amended section 6(d)(4) of the Food Stamp Act by adding a provision that limits the amount of money State agencies may spend to provide E&T program services to food stamp recipients who also receive benefits under a State program funded under title IV–A. The limit is the amount of Federal E&T funds the State agency spent on E&T services for the same category of recipients in FY 1995. The Department proposed, therefore, to add, at 7 CFR 273.7(d)(1)(i)(F), the provision that, notwithstanding any other provision of the paragraph, the amount of E&T funds, including participant and dependent care reimbursements, a State agency uses to serve participants who are receiving benefits under a State program funded under title IV–A may not exceed the amount of funds the State agency used in FY 1995 to serve participants who were receiving benefits under a State program funded under title IV–A.

Based on information provided by each State agency, the Department established claimed Federal E&T expenditures on this category of recipients in FY 1995 for the State agencies of Colorado ($318,613), Utah ($10,200), Vermont ($1,484,913), and Wisconsin ($10,999,773). These State agencies may spend a like amount each fiscal year to serve food stamp recipients who also receive title IV–A assistance, if they choose. Other State agencies are prohibited from expending any Federal E&T funds on title IV–A recipients.

Two commenters recommended that the final rule clearly identify the group to which the funding prohibition applies (title IV–A cash recipients or title IV–A supportive services recipients). This final rulemaking makes clear that the funding prohibition applies to individuals receiving cash assistance under title IV–A of the Social Security Act. The Department is amending the language at 7 CFR 273.7(d)(1)(i)(F) in this final rule to change the word ''benefit'' to ''cash assistance.''

**Funding for Food Stamp Employment and Training Programs**

Prior to enactment of the Balanced Budget Act, FSP regulations at section 273.7(d) required FNS to allocate an annual 100 percent Federally funded E&T grant to State agencies based on the number of work registrants in each State compared to the number of work registrants nationwide. The grant requires no State match. Each State agency must receive at least $50,000 in 100 percent Federal funds. State agencies are required to use their E&T grants to fund the administrative costs of planning, implementing and operating E&T programs. FNS pays 50 percent of all other administrative costs above those covered by the 100 percent Federal grant that State agencies incur in operating their E&T programs.

Section 1002 of the Balanced Budget Act authorized an additional $599 million over five years in 100 percent Federal funding for the operation of the E&T programs. The Agricultural Research, Extension, and Education Reform Act of 1998 (Pub. L. 105–185) reduced authorized levels by $100 million in FY 1998 and $45 million in FY 1999. Additionally, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2001, signed into law on October 28, 2000, reduced the authorized level for FY 2001 by $25 million. The purpose of the additional E&T funding is to enable State agencies to create additional education, training, and workfare opportunities that permit ABAWDs subject to the 3-month time limit to remain eligible. By providing State agencies with the resources to create more opportunities, the additional Balanced Budget Act funding will help insure that it is only those individuals who deliberately choose not to satisfy the program's work requirements who lose their eligibility and not those who are willing to work but cannot find opportunities to do so.

In the September 3, 1999, interim rulemaking, the Department amended Food Stamp Program regulations at § 273.7 to implement the requirements of the Balanced Budget Act. In this final rule we are addressing only those amendments that received comment. Provisions of the interim rulemaking that received no comment are adopted as final without change.

*Allocation of E&T Grants*

Prior to the enactment of the Balanced Budget Act, the regulation at 7 CFR 273.7(d)(1)(i)(A) required that nonperformance based 100 percent Federal E&T funding be allocated among State agencies based on the number of work registrants in each State relative to the total number of work registrants nationwide. To target Federal E&T funding toward serving ABAWDs subject to the 3-month time limit, the Balanced Budget Act amended section 16(h)(1) of the Food Stamp Act to require that, in FY 1999 through FY 2002, E&T funding be allocated to State agencies based on (1) changes in each State's food stamp caseload; and (2) each State's portion of food stamp recipients who are not eligible for an exception to the time limit under section 6(o)(3) of the Food Stamp Act and who do not reside in an area of the State granted a waiver of the ABAWD work requirement under section 6(o)(4) of the Food Stamp Act, or who do reside in an area of the State granted a waiver of the ABAWD work requirement under section 6(o)(4) of the Food Stamp Act if the State agency provides E&T services in the area to food stamp recipients who are subject to the work requirement. The interim rulemaking amended the regulations at 7 CFR 273.7(d)(1)(i)(C) to describe the new procedures for allocating 100 percent Federal E&T funding.

Prior to the Balanced Budget Act, the regulation at 7 CFR 273.7(d)(1)(i)(A)

required that FNS, using work registrant data from the most recent fiscal year, allocate nonperformance based 100 percent Federal E&T funding on the basis of work registrants in each State as a percentage of work registrants nationwide. Section 1002 of the Balanced Budget Act amended section 16(h) of the Food Stamp Act to require that, for purposes of determining each State agency's allocation of 100 percent Federal E&T funds in a fiscal year, FNS estimate the portion of food stamp recipients residing in each State who are not eligible for an exception under section 6(o)(3) of the Food Stamp Act using the 1996 Quality Control survey data. The interim rulemaking amended the regulation at 7 CFR 273.7(d)(1)(i)(D) to incorporate this requirement.

Prior to enactment of the Balanced Budget Act, the regulation at 7 CFR 273.7(d)(1)(i)(B) required that each State agency receive a minimum of $50,000 in 100 percent Federal E&T funding each fiscal year. The Balanced Budget Act left this requirement unchanged. However, the interim rulemaking amended the regulation at 7 CFR 273.7(d)(1)(i)(E) to revise the manner in which the minimum allocation is to be calculated.

Prior to enactment of the Balanced Budget Act, the regulation at 7 CFR 273.7(d)(1)(i)(D) authorized FNS, with the concurrence of the State agencies involved, to adjust the level of E&T grants during a fiscal year to move funds unlikely to be used by State agencies and reallocate them to State agencies that could use the funds more productively. The Balanced Budget Act contains the same authority, but it amended section 16(h)(1)(C) of the Food Stamp Act to authorize FNS to reallocate unexpended funds in the fiscal year in which they were allocated or in the subsequent fiscal year. The interim rule amended the regulation at 7 CFR 273.7(d)(1)(i)(F) to incorporate this authorization.

One commenter suggested that waivers exempting ABAWDs from the work requirement should be approved or denied before the allocation of funding for the E&T program. The Department does not agree with this suggestion. We act promptly on all ABAWD waivers. They are generally approved within 60 days of being submitted, and they are extended for no more than 1 year. The waiver cycle began after passage of PRWORA in August 1996. From the date on which the State agency submitted its request, the waiver would expire in approximately 1 year and 60 days. The waiver process is not associated with the E&T allocation. State agencies can monitor the employment situation in their States and if they think it is warranted, they can ask for waivers outside of their existing cycle. However, FNS will ensure that all waivers granted in a reasonable time before the E&T allocations are computed will be considered in the computation.

*Use of Funds*

The Balanced Budget Act amended section 16(h) of the Food Stamp Act to require that not less than 80 percent of a State agency's 100 percent Federal E&T allocation each fiscal year—both the base and additional Balanced Budget Act allocations—be used during the fiscal year to serve food stamp recipients not eligible for an exception under section 6(o)(3) of the Food Stamp Act who are placed in and comply with a program described in subparagraph (B) or (C) of section 6(o)(2) of the Food Stamp Act. The interim rule added a new section, designated 7 CFR 273.7(d)(1)(ii) to the regulations. The new section, titled ''Use of Funds,'' contains the requirements for State agency use of 100 percent Federal E&T funding established by the Balanced Budget Act.

Section 7 CFR 273.7(d)(1)(ii) requires that not less than 80 percent of the 100 percent Federal funds a State agency receives in a fiscal year be used to serve ABAWDs subject to the 3-month time limit who are placed in and comply with a qualifying work program for at least 20 hours a week or a workfare program as described in 7 CFR 273.7(m) or a comparable program. ''Work program'' is defined as an education or training activity operated under title I of the WIA (which replaces the Job Training Partnership Act (JTPA) effective July 1, 2000); section 236 of the Trade Act; or an E&T program operated or supervised by a State or a political subdivision of a State that meets standards approved by the Governor of the State, including the Food Stamp E&T Program, other than a job search or job search training program.

Section 7 CFR 273.7(d)(1)(ii) provides that the remaining 20 percent of a State agency's 100 percent Federal E&T grant may be used to provide work activities for food stamp recipients who meet one of the criteria for exception in section 6(o)(3) of the Food Stamp Act, or on work activities that do not qualify either as work or workfare programs, such as job search or job search training programs for any food stamp recipient.

Section 7 CFR 273.7(d)(1)(ii) also provides that, if a State agency spends more than 20 percent of the 100 percent Federal E&T funds it receives in a fiscal year to provide work activities for food stamp recipients who are eligible for an exception under section 6(o)(3) of the Food Stamp Act, or on activities that do not qualify either as work or workfare programs under sections 6(o)(2)(B) and (C) of the Food Stamp Act, the allowable costs incurred that are in excess of the 20 percent threshold will be reimbursed at the normal administrative 50–50 match rate.

Several commenters maintained that the final regulation should make clear that, under some circumstances, job search or job search training can be qualifying activities for ABAWDs. The Department agrees. Language has been added to 7 CFR 273.7(d)(1)(ii) in this final rulemaking to clarify that: (1) Job search and job search training programs operated under title I of the WIA or under section 236 of the Trade Act do meet the definition of work program; (2) job search or job search training activities, when offered as part of other E&T program components, are acceptable as long as those activities comprise less than half the required time spent in the other components; and (3) a job search period of up to 30 days following initial certification prior to making a workfare assignment is part of the workfare assignment, and not a job search ''program.''

One commenter pointed out that section 7(j) of the Food Stamp Act authorizes State agencies to offer State purchase programs to provide benefits for legal immigrants denied eligibility under sections 402 or 403 of PRWORA and ABAWDs who are no longer eligible to participate in the FSP because their 3-month time limit was reached. The commenter believes that the regulations should make clear that States may use 100 percent Federal E&T funds to fund work activities for legal immigrants receiving food stamps through such a State purchase program. The Department disagrees. State purchase program participants receive food stamp benefits that are paid for with State money and are not considered Federal food stamp recipients. As provided in section 7(j)(6) of the Food Stamp Act, administrative and other costs incurred in issuing a benefit under the State purchase program are not eligible for Federal funding.

Except for the addition of the clarification noted above, the Department is publishing this provision in the final rulemaking as it was issued in the interim rule.

*Component Costs*

The Department is taking the opportunity in this final rule to eliminate the reimbursement rate structure currently in effect. The rate structure, which represented the

maximum amount that FNS would reimburse State agencies for the costs of creating qualifying opportunities for ABAWDs to remain eligible, was initiated in the interim rule.

Section 1002 of the Balanced Budget Act amended section 16(h)(1) of the Food Stamp Act to require FNS to monitor State agency expenditures of 100 percent Federal E&T funding, including the costs of individual components of State E&T programs. The Balanced Budget Act also provided FNS the discretion to set reimbursable costs for individual components of State E&T programs, making sure that the amount spent or planned to be spent on the components reflect the reasonable cost of efficiently and economically providing components appropriate to recipients' employment and training needs.

The interim rulemaking amended food stamp regulations to add a new section that contained requirements regarding E&T components costs. The new section was designated section 273.7(d)(1)(iv) and titled ''Component Costs.''

FNS determined that setting reimbursement rates for E&T activities was necessary to promote the intent of the increased E&T funding, which was to create a sufficient number of work opportunities, or ''slots,'' so that as many ABAWDs that wished to work could be given the opportunity to do so before losing eligibility for the program. FNS believed that use of the reimbursement rates would help ensure that the maximum number of slots was created with the available funds, thus potentially keeping as many ABAWDs as possible eligible for the program.

The reimbursement rates—$30 for an offered work slot and $175 for a filled work slot—represented FNS's estimate of the reasonable cost of efficiently and economically providing work slots. The rates applied to all 100 percent Federal E&T funds that a State spent to provide qualifying activities that met the work requirement for ABAWDs, including those who reside in areas of a State granted a waiver under section 6(o)(4) of the Food Stamp Act and those granted an exemption from the requirement under section 6(o)(6) of the Food Stamp Act.

To provide State agencies greater flexibility to meet the intent of the increased funding provided under the Balanced Budget Act, FNS offered State agencies the opportunity to test an alternative to the reimbursement rates. Under the alternative, a participating State agency was permitted to spend its 100 percent Federal E&T allocation without regard to the slot rates if the State agency guaranteed to offer a qualifying education, training, or workfare opportunity to every ABAWD applicant and recipient who exhausted the 3-month food stamp time limit, who did not reside in an area of the State in which the ABAWD work requirement was waived, and who was not exempt from the ABAWD work requirement under each State agency's 15 percent exemption allowance in accordance with section 6(o)(6) of the Food Stamp Act. By fiscal year 2001 13 State agencies were operating under the alternative.

Numerous commenters stated their belief that the reimbursement rates established by FNS are too low and actually discourage—rather than encourage—State agencies from spending 100 percent Federal E&T money. They stated that the reimbursement rates make it impossible to effectively operate an E&T program. Unless the State can provide up front funding, no public or private non-profit agency can operate a program with the restricting $175 cost per participating client.

Now that FNS has had the opportunity for further consideration of this issue, we believe that the reimbursement rate structure has constrains State agencies' ability to serve ABAWDs effectively in State E&T programs and should be eliminated. This will allow State agencies to fully utilize the funds available to them to create opportunities for ABAWDs that meet PRWORA work requirements or that go beyond the requirements in PRWORA but help ABAWDs become and stay employed. Such opportunities could include expanded vocational training activities that are more expensive than normal, and post secondary education in subject areas directly related to employment. Because the law requires that 80 percent of all E&T funds either be earmarked for ABAWDs or returned to FNS for reallocation, the intent of the Act—efficiently and economically providing ABAWDs the opportunity to remain eligible-would continue to be met, and adequate funding would remain available for use by State agencies.

However, FNS will closely monitor State agency spending of 100 percent Federal E&T funds. We will pay particular attention to State agency estimates of component costs, as detailed in State E&T plans. We will compare those estimates with prior expenditures, keeping in mind variations among State agencies and the characteristics of the individuals to be served, as well as the components offered. In addition, we will utilize expenditure and program data reported by State agencies to track component costs throughout the fiscal year. In this manner, FNS will ensure that planned and actual expenditures continue to reflect reasonable costs of providing services.

The Department is amending in this final rulemaking the language of 7 CFR 273.7(d)(1)(iv) as published in the September 3, 1999 interim rule to eliminate the requirement for a reimbursement rate structure.

**Work Supplementation Program**

Section 849 of PRWORA amended section 16(b) of the Food Stamp Act (7 U.S.C. 2025(b)) to give State agencies the option to implement work supplementation (or support) programs. In these programs the cash value of public assistance benefits, plus FSP benefits, is provided to an employer as a wage subsidy to be used for hiring and employing public assistance recipients. The goal of work supplementation is to promote self-sufficiency by providing public assistance recipients with work experience to help them move into non-subsidized jobs.

The Department proposed to add, at 7 CFR 273.7, a new paragraph (l), containing requirements for the work supplementation or support program.

We further proposed to add a new paragraph (d)(xiv) under 7 CFR 272.2, *Plan of operation,* that contains the requirement for a planning document from each State agency that operates a work supplementation program.

The Department also solicited comments in the following areas that were not mandated by PRWORA but are necessary to comply with other laws or for accounting and reporting purposes.

- States must ensure that work supplemented or supported employees are treated the same as other non-subsidized employees and that all subsidized positions comply with the Fair Labor Standards Act.
- States must outline State agency, employer and recipient obligations and responsibilities in the proposed work supplementation program. They must also describe procedures for providing wage subsidies to participating employers and for monitoring the use of the funds.
- At the same time the plan is submitted for approval, the State must also submit an operating budget for the proposed program. Additionally, before the plan is approved, the State must agree to comply with certain reporting and monitoring requirements. State agencies operating work supplementation and support programs are required to comply with all FNS

reporting requirements, including reporting the amount of benefits contributed to all employers as a wage subsidy on the FNS 388. State Issuance and Participation Estimates; FNS–388A, Participation and Issuance Project Area; FNS–46. Issuance Reconciliation Report; and SF–269, Addendum Financial Status Report. State agencies are also required to report administrative costs associated with work supplementation programs on the FNS–366A, Budget Projection and SF–269, Financial Status Report. Special codes for work supplementation programs will be assigned for reporting purposes.

• The proposed rule asked States to include in their plan amendments whether food stamp allotments and public assistance grants will be frozen at the time a recipient begins a subsidized job. The Department was particularly interested in public comments on the desirability of a Federal standard for issuing supplemental allotments when earnings unexpectedly fall and, secondly, whether there should be a time limit on freezing benefit levels (i.e., not counting any unsubsidized wages from the employer).

• Once the work supplementation program plan is approved, the State agency must incorporate it into the State Plan of Operation and include its operating budget in the State agency budget. After approval, the Department will pay the cash value of a recipient's food stamp benefits to the State agency so they may be paid directly to an employer as a wage subsidy. The State agency will also be reimbursed for administrative costs related to the operation of the work supplementation program as provided by Section 16 of the Food Stamp Act.

• For Quality Control purposes, cases in which a household member is participating in a work supplementation program will be coded as not subject to review.

Section 273.7(l)(i)(H) provides that wages paid under a wage supplementation or support program must meet the requirements of the Fair Labor Standards Act. One commenter pointed out that a wide range of other employment laws beyond the Fair Labor Standards Act will also apply. The Department agrees and has amended this provision to indicate that wages paid under a wage supplementation or support program must meet the requirements of the Fair Labor Standards Act and other applicable employment laws.

No other germane comments concerning the proposed work supplementation or support program provision were received. Aside from the clarification noted above, the Department is adopting in this final rulemaking the revisions as proposed.

**Workfare**

Since 1982 the Department has afforded State agencies and political subdivisions the option to establish a workfare program. In workfare, nonexempt food stamp household members are required to accept public service job offers and work in return for the household's food stamp allotment. The number of hours of work required of a household member is calculated by dividing the household's monthly benefit by the higher of the applicable Federal or State minimum wage.

Under current rules, household members subject to the work registration requirements of 7 CFR 273.7(a) may also be subject to workfare. Additionally, recipients of benefits under title IV–A may be subject to workfare if they are currently involved less than 20 hours a week in title IV–A work activities and are not otherwise exempt. Applicants for, or recipients of, unemployment compensation may also be subject to workfare.

Workfare is a household responsibility. Legislative history (Conference Report No. 97–290 on the Agriculture and Food Act of 1981, December 10, 1981, page 226) established Congressional intent that the household's workfare responsibility be shared by all nonexempt members: ''Upon a household member's failure to comply with workfare requirements, the household would be ineligible for food stamps * * *, unless someone in the household satisfies all outstanding workfare obligations. * * *'' Failure of a household to comply with workfare requirements without good cause results in the disqualification of the entire household until the workfare obligation is met, or for two months, whichever is less.

The workfare provisions of section 20 (7 U.S.C. § 2029) of the Food Stamp Act entitle a political subdivision operating a workfare program to share in the benefit reductions that occur when a workfare participant begins employment while engaged in workfare for the first time, or within 30 days of ending the first participation in workfare. This provision is available only for workfare programs operated under section 20.

Workfare may also be offered as a component of a State agency's E&T program. However, workfare savings are not available for E&T workfare components.

State agencies and political subdivisions may also operate workfare programs in which participation by food stamp recipients is voluntary. In a voluntary program, disqualification for failure to comply does not apply. The number of hours of work will be negotiated between the volunteer household and the agency operating the workfare program.

Section 815 of PRWORA amended section 20 of the Food Stamp Act to: (1) eliminate the requirement for conformance with workfare programs under title IV–A; (2) eliminate the provision for combining the food stamp and title IV–A assistance grants to determine the number of hours a title IV–A food stamp household can be required to participate in a community work experience program established under section 409 of the Social Security Act; and (3) conform disqualification penalties for failure to comply with workfare requirements with those under section 6(d)(1) of the Food Stamp Act. Thus, while still a household responsibility, State agencies have the option of disqualifying the individual or, if the individual is a head of household, the entire household.

The Department proposed to amend 7 CFR 273.22 to incorporate PRWORA changes as well as making other technical corrections.

Lastly, in keeping with the Department's ongoing regulation streamlining and reform initiative, and to create a more logical union of food stamp work requirements and the optional workfare program, we proposed to move the amended 7 CFR 273.22 to 7 CFR 273.7, *Work provisions,* and to designate it paragraph (m), *Optional workfare program.*

One commenter asked for a clarification of the language in 273.7(m)(2)(i): Do the rules under section (m) apply to workfare programs operated as a component of a State agency's E&T program and those operated independently, or only those operated independently? A food stamp workfare program may be operated as a component of a State agency's E&T program. However, certain rules governing optional workfare programs operated under section 20 of the Food Stamp Act do not apply. For instance, the sharing of workfare savings authorized under section 20(g) of the Food Stamp Act are not available for E&T workfare components. Likewise, State agencies may not use any portion of their annual 100 percent Federal E&T grants to fund the administration of optional workfare programs under section 20 of the Food Stamp Act. They can, however, use their grants to fund the operation of workfare components in their E&T programs.

To ensure clarity in the final rulemaking, the Department is redesignating section 273.7(e)(1)(iii) as 273.7(e)(1)(iii)(A) and adding a new subparagraph, 273.7(e)(1)(iii)(B), to read: ''The sharing of workfare savings authorized under section 20(g) of the Food Stamp Act and detailed at paragraph (m)(7)(iv) of this section are not available for E&T workfare components.''

Further, the Department is adding the following statement to the end of 273.7(m)(7)(i): ''State agencies must not use any portion of their annual 100 percent Federal E&T allocations to fund the administration of optional workfare programs under section 20 of the Food Stamp Act and this subparagraph (m).''

**15 Percent Exemption**

*Background*

Section 1001 of the Balanced Budget Act amended section 6(o) of the Food Stamp Act to allow State agencies to provide an exemption from the 3-month ABAWD food stamp time limit to cover up to 15 percent of their ABAWDs who would otherwise be ineligible because of the limit. These ''covered individuals,'' as defined in section 6(o)(6)(ii) of the Food Stamp Act, are food stamp recipients, or applicants denied food stamps because they have exhausted their 3 months of eligibility, who: (1) Are not eligible for an exception to the ABAWD work requirement; (2) are not covered by a waiver of the ABAWD work requirement; (3) are not already complying with the ABAWD work requirement; (4) are not receiving food stamps during their 3 months of eligibility authorized under the time limit; or (5) are not receiving food stamps during a subsequent period after reestablishing eligibility by complying with the requirements of section 6(o)(5) of the Food Stamp Act.

Section 1001 of the Balanced Budget Act authorizes the Secretary to estimate the number of covered individuals in a State based on FY 1996 Quality Control data and other factors appropriate due to the timing and the limitations of the data. The Secretary is also authorized to: (1) Adjust the number of exemptions each fiscal year to reflect changes in the State's caseload and changes in the proportion of the State's food stamp caseload covered by the ABAWD-related waivers; (2) adjust the number of exemptions estimated for a State during a fiscal year if the number of food stamp recipients in the State varies from the State's caseload by more than 10 percent; (3) adjust the number of exemptions assigned for a current fiscal year based on the actual number of exemptions granted by the State agency in the preceding fiscal year; and (4) require whatever State agency reports determined necessary to ensure compliance with the 15 percent exemption provisions. The Department has no discretion in implementing this provision.

Because of the many requirements of PRWORA and the Balanced Budget Act that apply only to ABAWDs and the 3-month time limit, the Department created, in the interim rule, a new regulatory section, section 273.24, in which it incorporated the Balanced Budget Act provisions regarding the 15 percent exemptions.

*Determining How To Use the Exemptions*

In the interim rule the Department did not prescribe how State agencies must use the exemption authority. State agencies have maximum flexibility to apply the exemptions as they deem appropriate. However, in the preamble to the interim rule, the Department did remind State agencies that, along with the flexibility they are afforded in terms of determining the exemption criteria, they have the responsibility for developing exemption policies that comport with their number of exemptions.

*Covered Individuals*

In the interim rule, the Department clarified that it is up to the State agency to decide whether or not to require an ABAWD to exhaust the 3-month time limit (either the initial 3 months or the subsequent 3 months) in order to qualify for an exemption under this provision. For example, if a State agency has a sufficient number of 15 percent exemptions available, it may choose to exempt all ABAWDs residing in an area not already waived under 6(o)(4) regardless of whether they have exhausted their first or second 3 months. Conversely, a State agency may determine that the best way to manage its finite number of 15 percent exemptions is to require individuals to exhaust their 3 months of eligibility before being exempted under this provision.

*Determining the Number of Exemptions*

The interim rule provided that a State agency may exempt up to 15 percent of their covered individuals. The number of exemptions allotted each State will reflect changes in the State's caseload and the proportion of ABAWDs covered by waivers granted under paragraph 6(o)(4) of the Food Stamp Act.

The interim rule further provided that FNS will adjust the estimated number of covered individuals estimated for a State during a fiscal year if the number of actual food stamp recipients in the State varies by more than 10 percent, as determined by the FNS.

Lastly, the interim rule authorized FNS to adjust the number of exemptions allocated to a State agency for a fiscal year based on the difference between the average monthly number of exemptions in effect in the State for the preceding fiscal year and the average monthly number of exemptions estimated for the State agency for the preceding fiscal year. If more exemptions are used than authorized in a fiscal year, the State's allocation for the next year will be reduced. If the State agency does not use all of its exemptions by the end of the fiscal year, FNS will increase by the remaining balance the estimated number of exemptions allocated to the State agency for the subsequent fiscal year.

*Reporting*

The interim rule required State agencies to track and report the number of cases exempt under the 15 percent criteria used each month to their respective FNS regional offices on a quarterly basis.

All commenters agreed with allowing maximum flexibility in using the exemption.

One commenter stated that in calculating the number of people living in areas where there is no ABAWD waiver due to insufficient jobs or high unemployment, the Department should take special care to avoid overestimating the number of people in waived parts of counties that contain only some waived communities. They believe the Department should develop and release a clear, reliable methodology for calculating the fraction of a county's recipients that are covered by an ABAWD waiver.

The Department is currently exploring ways to improve the estimates of the proportions of an area that have received waivers. For example, we have been working to modify the QC file to enable it to both identify cases in the file that should be classified as ABAWDs, and to determine whether those cases either live in a waived area, or are subject to other exemptions. The effort is ongoing, and we will continue to welcome technical contributions in this area.

One commenter suggested that the Department should make technical assistance available to help States identify simple, easily administered options for using the exemptions, such

as extending the number of months of benefits a household may receive within a 36-month period, reducing the number of months (from 36) required for a household's ''clock'' to recharge, or exempting readily identifiable demographic groups (such as those over age 40 or 45). The Department has provided guidance to the State agencies regarding use of exemptions in the form of policy memoranda. At the same time, regional offices are working very closely with State agencies to identify the best way to use the exemptions and to share information on what other State agencies are doing.

Another commenter suggested that the Department should allow States to rely upon estimates of the effects of its 15 percent exemption policy as an alternative to counting the actual number of exemptions provided each month. The Department will not make a change to this provision. Because of the statutory 15 percent limit on exemptions the Department must require an accurate accounting of how many exemptions State agencies use. Likewise, States agencies need to accurately record the numbers of individuals exempt under this provision in order to comply with the statute.

Publication of an associated final rulemaking added to and revised § 273.24. Additionally, corrections have made to the language of the original interim rule. Thus, the Department is taking this opportunity to publish the 15 percent ABAWD exemption provision in its final form.

**List of Subjects**

*7 CFR 271*

Administrative practice and procedures, Food stamps, Grant programs-social programs.

*7 CFR 272*

Administrative practice and procedures, Food stamps, Grant programs-social programs.

*7 CFR 273*

Administrative practice and procedures, Food stamps, Grant programs-social programs, Penalties, Reporting and recordkeeping.

*7 CFR 275*

Administrative practice and procedures, Food stamps, Reporting and recordkeeping requirements.

*7 CFR 277*

Administrative practice and procedures, Food stamps, Fraud, Grant Programs, Social Programs, Penalties.

Accordingly, 7 CFR parts 271, 272, 273, 275, and 277 are amended as follows:

1. The authority citation for parts 271, 272, 273, 275, and 277 continues to read as follows:

**Authority:** 7 U.S.C. 2011–2036

## PART 271—GENERAL INFORMATION AND DEFINITIONS

2. In § 271.2:

a. The definition of ''Base of eligibles'' is removed.

b. The definition of ''Exempted'' is amended by removing the reference to ''§ 273.7(f)'' and adding in its place a reference to ''§ 273.7(e).''

c. The definition of ''Placed in an employment and training (E&T) program'' is revised.

The revision reads as follows:

**§ 271.2 Definitions.**

* * * * *

*Placed in an employment and training (E&T) program* means a State agency may count a person as ''placed'' in an E&T program when the individual commences a component.

* * * * *

3. In § 271.8, amend the table of OMB assigned control numbers by:

a. Removing the entry for ''273.7(a), (d), (f)'' and adding in its place an entry for ''273.7(a), (d), (e).''

b. Removing the entry for ''273.7(g)'' and adding in its place an entry for ''273.7(f).''

c. Adding a new entry ''273.7(m)'' after the newly amended entry for ''273.7(f).''

d. Removing the entry for ''273.22(b), (c), (d), (e), (f), (g).''

The addition reads as follows:

**§ 271.8 Information collection/ recordkeeping—OMB assigned control numbers.**

| 7 CFR section where requirements are described | Current OMB control no. |
|---|---|
| * * * * * * * | |
| 273.7(m) | 0584–0285 |
| * * * * * * * | |

## PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

4. In § 272.1, add paragraph (g)(166) to read as follows:

**§ 272.1 General terms and conditions.**

* * * * *

(g) * * *

(166) *Amendment No. 393.* The provisions of Amendment No. 393, regarding the Work Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 are effective August 19, 2002.

5. In § 272.2:

a. Paragraph (d)(1)(v) is amended by removing the reference to ''§ 273.7(c)(4) and (5)'' and adding in its place a reference to ''§ 273.7(c)(6).''

b. New paragraphs (d)(1)(xiv) and (d)(1)(xv) are added.

c. Paragraph (e)(9) is amended by removing the reference to ''§ 273.7(c)(5)'' and adding in its place a reference to ''§ 273.7(c)(7).''

The additions read as follows:

**§ 272.2 Plan of operation.**

* * * * *

(d) * * *

(1) * * *

(xiv) The State agency's disqualification plan, in accordance with § 273.7(f)(3) of this chapter.

(xv) If the State agency chooses to implement the provisions for a work supplementation or support program, the work supplementation or support program plan, in accordance with § 273.7(l)(1) of this chapter.

* * * * *

## PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

6. In § 273.1:

a. Paragraph (b)(7)(iv) is removed and paragraphs (b)(7)(v), (b)(7)(vi), (b)(7)(vii), (b)(7)(viii), (b)(7)(ix), (b)(7)(x), (b)(7)(xi), and (b)(7)(xii) are redesignated as (b)(7)(iv), (b)(7)(v), (b)(7)(vi), (b)(7)(vii), (b)(7)(viii), (b)(7)(ix), (b)(7)(x) and (b)(7)(xi) respectively.

b. The first sentence of paragraph (d)(2) is revised.

The revision reads as follows:

**§ 273.1 Household concept.**

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(d) * * *

(2) For purposes of failure to comply with the work requirements of § 273.7, the head of household shall be the principal wage earner unless the household has selected an adult parent of children as specified in paragraph (d)(1) of this section. * * *

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**§ 273.5 [AMENDED]**

7. In § 273.5, paragraph (b)(ll)(iv) is amended by removing two references to ''§ 273.7(f)(1)'' and adding in their places a reference to ''§ 273.7(e)(1).''

8. § 273.7 is revised to read as follows:

**§ 273.7 Work provisions.**

(a) *Work requirements.* (1) As a condition of eligibility for food stamps, each household member not exempt under paragraph (b)(1) of this section must comply with the following Food Stamp Program work requirements:

(i) Register for work or be registered by the State agency at the time of application and every 12 months after initial registration. The member required to register need not complete the registration form.

(ii) Participate in a Food Stamp Employment and Training (E&T) program if assigned by the State agency, to the extent required by the State agency;

(iii) Participate in a workfare program if assigned by the State agency;

(iv) Provide the State agency or its designee with sufficient information regarding employment status or availability for work;

(v) Report to an employer to whom referred by the State agency or its designee if the potential employment meets the suitability requirements described in paragraph (h) of this section;

(vi) Accept a bona fide offer of suitable employment, as defined in paragraph (h) of this section, at a site or plant not subject to a strike or lockout, at a wage equal to the higher of the Federal or State minimum wage or 80 percent of the wage that would have governed had the minimum hourly rate under section 6(a)(1) of the Fair Labor Standards Act been applicable to the offer of employment.

(vii) Do not voluntarily and without good cause quit a job of 30 or more hours a week or reduce work effort to less than 30 hours a week, in accordance with paragraph (j) of this section.

(2) The Food and Nutrition Service (FNS) has defined the meaning of ''good cause,'' and ''voluntary quit,'' and ''reduction of work effort'' as used in paragraph (a)(1)(vii) of this section. See paragraph (i) of this section for a discussion of good cause; see paragraph (j) of this section for a discussion of voluntary quit and reduction of work effort.

(3) Each State agency will determine the meaning of any other terms used in paragraph (a)(1) of this section; the procedures for establishing compliance with Food Stamp Program work requirements; and whether an individual is complying with Food Stamp Program work requirements. A State agency must not use a meaning, procedure, or determination that is less restrictive on food stamp recipients than is a comparable meaning, procedure, or determination under the State agency's program funded under title IV–A of the Social Security Act.

(4) Strikers whose households are eligible under the criteria in § 273.1(e) are subject to Food Stamp Program work requirements unless they are exempt under paragraph (b)(1) of this section at the time of application.

(5) State agencies may request approval from FNS to substitute State or local procedures for work registration for PA households not subject to the work requirements under title IV of the Social Security Act or for GA households. However, the failure of a household member to comply with State or local work requirements that exceed the requirements listed in this section must not be considered grounds for disqualification. Work requirements imposed on refugees participating in refugee resettlement programs may also be substituted, with FNS approval.

(6) Household members who are applying for SSI and for food stamps under § 273.2(k)(1)(i) will have Food Stamp Program work requirements waived until they are determined eligible for SSI and become exempt from Food Stamp Program work requirements, or until they are determined ineligible for SSI, at which time their exemptions from Food Stamp Program work requirements will be reevaluated.

(b) *Exemptions from work requirements.* (1) The following persons are exempt from Food Stamp Program work requirements:

(i) A person younger than 16 years of age or a person 60 years of age or older. A person age 16 or 17 who is not the head of a household or who is attending school, or is enrolled in an employment training program, on at least a half-time basis, is also exempt. If the person turns 16 (or 18 under the preceding sentence) during a certification period, the State agency must register the person as part of the next scheduled recertification process, unless the person qualifies for another exemption.

(ii) A person physically or mentally unfit for employment. For the purposes of this paragraph (b), a State agency will define physical and mental fitness; establish procedures for verifying; and will verify claimed physical or mental unfitness when necessary. However, the State agency must not use a definition, procedure for verification, or verification that is less restrictive on food stamp recipients than a comparable meaning, procedure, or determination under the State agency's program funded under title IV–A of the Social Security Act.

(iii) A person subject to and complying with any work requirement under title IV of the Social Security Act. If the exemption claimed is questionable, the State agency is responsible for verifying the exemption.

(iv) A parent or other household member responsible for the care of a dependent child under 6 or an incapacitated person. If the child has his or her 6th birthday during a certification period, the State agency must work register the individual responsible for the care of the child as part of the next scheduled recertification process, unless the individual qualifies for another exemption.

(v) A person receiving unemployment compensation. A person who has applied for, but is not yet receiving, unemployment compensation is also exempt if that person is complying with work requirements that are part of the Federal-State unemployment compensation application process. If the exemption claimed is questionable, the State agency is responsible for verifying the exemption with the appropriate office of the State employment services agency.

(vi) A regular participant in a drug addiction or alcoholic treatment and rehabilitation program.

(vii) An employed or self-employed person working a minimum of 30 hours weekly or earning weekly wages at least equal to the Federal minimum wage multiplied by 30 hours. This includes migrant and seasonal farm workers under contract or similar agreement with an employer or crew chief to begin employment within 30 days (although this will not prevent individuals from seeking additional services from the State employment services agency). For work registration purposes, a person residing in areas of Alaska designated in § 274.10(a)(4)(iv) of this chapter, who subsistence hunts and/or fishes a minimum of 30 hours weekly (averaged over the certification period) is considered exempt as self-employed. An employed or self-employed person who voluntarily and without good cause reduces his or her work effort and, after the reduction, is working less than 30 hours per week, is ineligible to participate in the Food Stamp Program under paragraph (j) of this section.

(viii) A student enrolled at least half-time in any recognized school, training program, or institution of higher education. Students enrolled at least half-time in an institution of higher education must meet the student eligibility requirements listed in § 273.5. A student will remain exempt during normal periods of class attendance, vacation, and recess. If the student

graduates, enrolls less than half-time, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer), the State agency must work register the individual, unless the individual qualifies for another exemption.

(2)(i) Persons losing exemption status due to any changes in circumstances that are subject to the reporting requirements of § 273.12 must register for employment when the change is reported. If the State agency does not use a work registration form, it must annotate the change to the member's exemption status. If a work registration form is used, the State agency is responsible for providing the participant with a work registration form when the change is reported. Participants are responsible for returning the completed form to the State agency within 10 calendar days from the date the form was handed to the household member reporting the change in person, or the date the State agency mailed the form. If the participant fails to return the completed form, the State agency must issue a notice of adverse action stating that the participant is being terminated and why, but that the termination can be avoided by returning the form.

(ii) Those persons who lose their exemption due to a change in circumstances that is not subject to the reporting requirements of § 273.12 must register for employment at their household's next recertification.

*(c) State agency responsibilities.* (1) The State agency must register for work each household member not exempted by the provisions of paragraph (b)(1) of this section. As part of the work registration process, the State agency must explain to the individual the pertinent work requirements, the rights and responsibilities of work-registered household members, and the consequences of failure to comply. The State agency must provide a written statement of the above to each individual in the household who is registered for work. A notice must also be provided when a previously exempt individual or new household member becomes subject to a work requirement, and at recertification. The State agency must permit the applicant to complete a record or form for each household member required to register for employment in accordance with paragraph (a)(1)(i) of this section. Household members are considered to have registered when an identifiable work registration form is submitted to the State agency or when the registration is otherwise annotated or recorded by the State agency.

(2) The State agency is responsible for screening each work registrant to determine whether or not it is appropriate, based on the State agency's criteria, to refer the individual to an E&T program, and if appropriate, referring the individual to an E&T program component. Upon entry into each component, the State agency must inform the participant, either orally or in writing, of the requirements of the component, what will constitute noncompliance and the sanctions for noncompliance. The State agency may, with FNS approval, use intake and sanction systems that are compatible with its title IV–A work program. Such systems must be proposed and explained in the State agency's E&T State Plan.

(3) The State agency must issue a notice of adverse action to an individual, or to a household if appropriate, within 10 days after learning of the individual's noncompliance with Food Stamp Program work requirements. The notice of adverse action must meet the timeliness and adequacy requirements of § 273.13. If the individual complies before the end of the advance notice period, the State agency will cancel the adverse action. If the State agency offers a conciliation process as part of its E&T program, it must issue the notice of adverse action no later than the end of the conciliation period.

(4) The State agency must design and operate an E&T program that may consist of one or more or a combination of employment and/or training components as described in paragraph (e)(1) of this section. The State agency must ensure that it is notified by the agency or agencies operating its E&T components within 10 days if an E&T mandatory participant fails to comply with E&T requirements.

(5) Each component of the State agency's E&T program must be delivered through its statewide workforce development system, unless the component is not available locally through such a system.

(6) In accordance with § 272.2(d) and § 272.2(e) of this chapter, the State agency must prepare and submit an E&T Plan to its appropriate FNS Regional Office. The E&T Plan must be available for public inspection at the State agency headquarters. In its E&T Plan, the State agency will detail the following:

(i) The nature of the E&T components the State agency plans to offer and the reasons for such components, including cost information. The methodology for State agency reimbursement for education components must be specifically addressed;

(ii) An operating budget for the Federal fiscal year with an estimate of the cost of operation for one full year. Any State agency that requests 50 percent Federal reimbursement for State agency E&T administrative costs, other than for participant reimbursements, must include in its plan, or amendments to its plan, an itemized list of all activities and costs for which those Federal funds will be claimed, including the costs for case management and casework to facilitate the transition from economic dependency to self-sufficiency through work. Costs in excess of the Federal grant will be allowed only with the prior approval of FNS and must be adequately documented to assure that they are necessary, reasonable and properly allocated. If the State agency intends to spend the additional E&T grant allocation for which it is eligible in a fiscal year in accordance with paragraph (d)(1)(i)(B) of this section, it must declare its intention to maintain its level of expenditures for E&T and workfare at a level not less than the level of such expenditures in FY 1996;

(iii) The categories and types of individuals the State agency intends to exempt from E&T participation, the estimated percentage of work registrants the State agency plans to exempt, and the frequency with which the State agency plans to reevaluate the validity of its exemptions;

(iv) The characteristics of the population the State agency intends to place in E&T;

(v) The estimated number of volunteers the State agency expects to place in E&T;

(vi) The geographic areas covered and not covered by the E&T Plan and why, and the type and location of services to be offered;

(vii) The method the State agency uses to count all work registrants the first month of each fiscal year;

(viii) The method the State agency uses to report work registrant information on the quarterly Form FNS–583;

(ix) The method the State agency uses to prevent work registrants from being counted twice within a Federal fiscal year. If the State agency universally work registers all food stamp applicants, this method must specify how the State agency excludes those exempt from work registration under paragraph (b)(1) of this section. If the State agency work registers nonexempt participants whenever a new application is submitted, this method must also specify how the State agency excludes those participants who may have already been registered within the past

12 months as specified under paragraph (a)(1)(i) of this section;

(x) The organizational relationship between the units responsible for certification and the units operating the E&T components, including units of the statewide workforce development system, if available. FNS is specifically concerned that the lines of communication be efficient and that noncompliance be reported to the certification unit within 10 working days after the noncompliance occurs;

(xi) The relationship between the State agency and other organizations it plans to coordinate with for the provision of services, including organizations in the statewide workforce development system, if available. Copies of contracts must be available for inspection;

(xii) The availability, if appropriate, of E&T programs for Indians living on reservations;

(xiii) If a conciliation process is planned, the procedures that will be used when an individual fails to comply with an E&T program requirement. Include the length of the conciliation period; and

(xiv) The payment rates for child care established in accordance with the Child Care and Development Block Grant provisions of 45 CFR 98.43, and based on local market rate surveys.

(7) The State agency will submit its E&T Plan biennially, at least 45 days before the start of the Federal fiscal year. The State agency must submit plan revisions to the appropriate FNS regional office for approval if it plans to alter the nature or location of its components or the number or characteristics of persons served. The proposed changes must be submitted for approval at least 30 days prior to planned implementation.

(8) The State agency will submit quarterly reports to FNS no later than 45 days after the end of each Federal fiscal quarter containing monthly figures for:

(i) Participants newly work registered;

(ii) Work registrants exempted by the State agency from participation in E&T;

(iii) Participants who volunteer for and commence participation in an approved E&T component;

(iv) E&T mandatory participants who commence an approved E&T component, including Food Stamp Program applicants if the State agency chooses to operate a component for applicants;

(v) Able-bodied adults without dependents (ABAWDs) subject to the 3-month food stamp time limit imposed in accordance with § 273.24(b) who are exempt under the State agency's 15 percent exemption allowance under § 273.24(g);

(vi) Filled and offered slots created in E&T workfare components or comparable programs that serve ABAWDs subject to the 3-month food stamp time limit. This information must be broken out to show the number of slots created in areas of the State that have received a waiver of the time limit in accordance with § 273.24(f) and in non-waived areas;

(vii) Filled and offered slots created in education and training components or comparable programs that serve ABAWDs subject to the 3-month food stamp time limit. This information must be broken out to show the number of slots created in areas of the State that have received a waiver of the time limit in accordance with § 273.24(f) and in non-waived areas;

(viii) The amount of 100 percent Federal E&T funds spent to create workfare slots that serve ABAWDs subject to the 3-month time limit; and

(ix) The amount of 100 percent Federal E&T funds spent to create education and training slots that serve ABAWDs subject to the 3-month time limit.

(9) The State agency will submit annually, on its first quarterly report:

(i) The number of work registered persons in the State during the period October 1 through October 31 of the new fiscal year, including persons work registered during October; and

(ii) The number of these work registered persons the State agency subsequently exempted from participation in E&T.

(10) The State agency will submit annually, on its final quarterly report, a list of E&T components it offered during the fiscal year and the number of mandatory and volunteer participants placed in each E&T component.

(11) Additional information may be required of the State agency, on an as needed basis, regarding the type of components offered and the characteristics of persons served, depending on the contents of its E&T Plan.

(12) The State agency must ensure, to the maximum extent practicable, that E&T programs are provided for Indians living on reservations.

(13) If a benefit overissuance is discovered for a month or months in which a mandatory E&T participant has already fulfilled a work component requirement, the State agency must follow the procedure specified in paragraph (m)(6)(v) of this section for a workfare overissuance.

(14) If a State agency fails to efficiently and effectively administer its E&T program, the provisions of § 276.1(a)(4) of this chapter will apply.

(d) *Federal financial participation.* (1) *Employment and training grants.* (i) *Allocation of grants.* Each State agency will receive an E&T program grant for each fiscal year to operate an E&T program. The grant requires no State matching. The grant will consist of a base amount and a additional amount that will be available only to those affected State agencies that elect to meet their maintenance of effort requirements as described in paragraph (d)(1)(iii) of this section.

(A) In determining each State agency's base 100 percent Federal E&T grant amount, FNS will apply the percentage determined in accordance with paragraph (d)(1)(i)(C) of this section to the total amount of the 100 percent Federal E&T grant provided under section 16(h)(1)(A) of the Food Stamp Act for each fiscal year.

(B) In determining each State agency's additional 100 percent Federal E&T grant amount, FNS will apply the percentage determined in accordance with paragraph (d)(1)(i)(C) of this section to the total amount of 100 percent Federal E&T grant provided under section 16(h)(1)(A) of the Food Stamp Act for each fiscal year.

(C) Except as otherwise provided in paragraph (d)(1)(i)(F) of this section, Federal funding for E&T grants, including both the base and additional amounts, will be allocated based on the number of ABAWDs in each State not eligible for an exemption under § 273.24(c), who either do not reside in an area subject to a waiver granted in accordance with § 273.24(f) or who do reside in an area subject to a waiver in which the State agency provides E&T services to ABAWDs, as a percentage of such recipients nationwide. FNS will ensure that all waivers granted in accordance with § 273.24(f) in a reasonable time before the E&T allocations are determined will be considered in the determination.

(D) FNS will determine each State's percentage of ABAWDs using FY 1996 Quality Control survey data adjusted for changes in each State's caseload.

(E) No State agency will receive less than $50,000 in 100 percent Federal E&T funds. To ensure this, FNS will reduce, if necessary, the grant of each State agency allocated more than $50,000. The reduction will be proportionate to the number of ABAWDs in the State who are not eligible for an exemption under § 273.24(c), and who do not reside in an area subject to a waiver under § 273.24(f) or who do reside in an area subject to a waiver in which the State

agency provides E&T services to ABAWDs as compared to the total number of such recipients in all the State agencies receiving more than $50,000. FNS will distribute the funds from the reduction to State agencies initially allocated less than $50,000 so they receive the $50,000 minimum.

(F) If a State agency will not expend all of the funds allocated to it for a fiscal year under paragraph (d)(1)(i)(C) of this section, FNS will reallocate the unexpended funds to other State agencies during the fiscal year or the subsequent fiscal year as it considers appropriate and equitable.

(ii) *Use of Funds.* (A) Not less than 80 percent of the funds a State agency receives in a fiscal year under paragraph (d)(1)(i) of this section must be used to serve ABAWDs who are placed in and comply with the requirements of a workfare component in an E&T program described in paragraph (e)(1)(iii) of this section or a comparable program, or to serve ABAWDs participating in qualifying education and training activities for 20 hours or more per week. Qualifying activities are those provided as part of a program operated under the Workforce Investment Act of 1998 (29 U.S.C. 2801 *et seq.*)(WIA), a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296), *or* an E&T program operated or supervised by the State agency or a political subdivision that meets standards approved by the Governor of the State, including programs described in paragraphs (e)(1)(iv), (e)(1)(v), (e)(1)(vi) and (e)(1)(vii) of this section. Job search and job search training programs as described in paragraphs (e)(1)(i) and (e)(1)(ii) of this section do not meet the definition of qualifying activities. However, job search and or job search training programs, when operated under title I of the WIA or under section 236 of the Trade Act, do meet the definition of qualifying activities. Further, job search or job search training activities, when offered as part of other E&T program components, are acceptable as long as those activities comprise less than half the required time spent in the other components. Lastly, a State agency may establish a job search period of up to 30 days following initial certification prior to making a workfare assignment. This job search activity is part of the workfare assignment, and not a job search ''program.'' Participants are considered to be participating in and complying with the requirements of workfare, thereby meeting the work requirement for ABAWDs.

(B) Funds a State agency receives in a fiscal year under paragraph (d)(1)(i) of this section that are used to serve ABAWDs who either reside in an area of a State granted a waiver under § 273.24(f) or who have been granted an exemption under § 273.24(g) and that are expended on qualifying ABAWD activities as described in paragraph (d)(1)(ii)(A) of this section count toward a State agency's 80 percent expenditure.

(C) Not more than 20 percent of the funds a State agency receives in a fiscal year under paragraph (d)(1)(i) of this section may be used to serve individuals eligible for an exemption under § 273.24(c) (non-ABAWDs) or on activities that do not meet the definition of qualifying activities as described in paragraph (d)(1)(ii)(A) of this section. E&T funds expended in accordance with this paragraph (d)(1)(ii)(C) may be spent independent of whether or not the State agency expends any Federal funds that meet the requirements of paragraph (d)(1)(ii)(A) of this section.

(D) If at the end of a fiscal year, FNS determines that a State agency has spent more than 20 percent of the Federal E&T funds it received for that fiscal year under paragraph (d)(1)(i) of this section to serve non-ABAWDs or on activities that do not meet the definition of qualifying activities as described in paragraph (d)(1)(ii)(A) of this section, it will reimburse States for allowable costs incurred in excess of the 20 percent threshold at the normal administrative 50/50 match rate.

(E) A State agency must use E&T program grants to fund the administrative costs of planning, implementing and operating its food stamp E&T program in accordance with its approved State E&T plan. E&T grants must not be used for the process of determining whether an individual must be work registered, the work registration process, or any further screening performed during the certification process, nor for sanction activity that takes place after the operator of an E&T component reports noncompliance without good cause. For purposes of this paragraph (d), the certification process is considered ended when an individual is referred to an E&T component for assessment or participation. E&T grants may also not be used to subsidize the wages of participants, or to reimburse participants under paragraph (d)(3) of this section.

(F) A State agency's receipt of its 100 percent Federal E&T grant is contingent on FNS's approval of the State agency's E&T plan. If an adequate plan is not submitted, FNS may reallocate a State agency's grant among other State agencies with approved plans. Non-receipt of an E&T grant does not release a State agency from its responsibility under paragraph (c)(4) of this section to operate an E&T program.

(G) Federal funds made available to a State agency to operate an educational component under paragraph (e)(1)(vi) of this section must not be used to supplant nonfederal funds for existing educational services and activities that promote the purposes of this component. Education expenses are approvable to the extent that E&T component costs exceed the normal cost of services provided to persons not participating in an E&T program.

(H) In accordance with section 6(d)(4)(K) of the Food Stamp Act, and notwithstanding any other provision of this paragraph (d), the amount of Federal E&T funds, including participant and dependent care reimbursements, a State agency uses to serve participants who are receiving cash assistance under a State program funded under title IV–A of the Social Security Act must not exceed the amount of Federal E&T funds the State agency used in FY 1995 to serve participants who were receiving cash assistance under a State program funded under title IV–A of the Social Security Act.

(1) Based on information provided by each State agency, FNS established claimed Federal E&T expenditures on this category of recipients in fiscal year 1995 for the State agencies of Colorado ($318,613), Utah ($10,200), Vermont ($1,484,913), and Wisconsin ($10,999,773). These State agencies may spend up to a like amount each fiscal year to serve food stamp recipients who also receive title IV assistance.

(2) All other State agencies are prohibited from expending any Federal E&T funds on title IV cash assistance recipients.

(iii) *Maintenance of Effort.* (A) To be eligible for a grant derived from the additional level of E&T funding described in paragraph (d)(1)(i)(B) of this section, a State agency must maintain State expenditures on E&T programs and optional workfare (if applicable) at a level not less than the level of its expenditures in FY 1996. A State agency need not expend all of its required maintenance of effort funds before it begins spending its additional E&T grant. In accordance with paragraph (c)(6)(ii) of this section, a State agency that intends to spend the additional allocation for which it is eligible in a fiscal year must declare in its State E&T plan for that fiscal year its intention to maintain its expenditures for E&T and optional workfare (if applicable) at a level not less than the level of such expenditures in FY 1996.

(B) State funds that a State agency expends in order to meet its maintenance of effort requirement are not subject to the use of funds requirements of paragraph (d)(1)(ii) of this section.

(C) Participant reimbursements paid with State funds do not count toward a State agency's maintenance of effort requirement, except in the case of optional workfare programs in which reimbursements to participants for work-related expenses are part of the State agency's administrative expenses in accordance with section 20(g)(1) of the Food Stamp Act.

(iv) *Component Costs.* FNS will monitor State agencies' expenditures of 100 percent Federal E&T funds, including the costs of individual components of State agencies' programs, to ensure that planned and actual spending reflects the reasonable cost of efficiently and economically providing E&T services.

(2) *Additional administrative costs.* Fifty percent of all other administrative costs incurred by State agencies in operating E&T programs, above the costs referenced in paragraph (d)(1) of this section, will be funded by the Federal government.

(3) *Participant reimbursements.* The State agency must provide payments to participants in its E&T program, including applicants and volunteers, for expenses that are reasonably necessary and directly related to participation in the E&T program. These payments may be provided as a reimbursement for expenses incurred or in advance as payment for anticipated expenses in the coming month. The State agency must inform each E&T participant that allowable expenses up to the amounts specified in paragraphs (d)(3)(i) and (d)(3)(ii) of this section will be reimbursed by the State agency upon presentation of appropriate documentation. Reimbursable costs may include, but are not limited to, dependent care costs, transportation, and other work, training or education related expenses such as uniforms, personal safety items or other necessary equipment, and books or training manuals. These costs must not include the cost of meals away from home. If applicable, any allowable costs incurred by a noncompliant E&T participant after the expiration of the noncompliant participant's minimum mandatory disqualification period, as established by the State agency, that are reasonably necessary and directly related to reestablishing eligibility, as defined by the State agency, are reimbursable under paragraphs (d)(3)(i) and (d)(3)(ii) of this section. The State agency may reimburse participants for expenses beyond the amounts specified in paragraphs (d)(3)(i) and (d)(3)(ii) of this section; however, only costs that are up to but not in excess of those amounts are subject to Federal cost sharing. Reimbursement must not be provided from E&T grants allocated under paragraph (d)(1)(i) of this section. Any expense covered by a reimbursement under this section is not deductible under § 273.10(d)(1)(i).

(i) The State agency will reimburse the cost of dependent care it determines to be necessary for the participation of a household member in the E&T program up to the actual cost of dependent care, or the applicable payment rate for child care, whichever is lowest. The payment rates for child care are established in accordance with the Child Care and Development Block Grant provisions of 45 CFR 98.43, and are based on local market rate surveys. The State agency will provide a dependent care reimbursement to an E&T participant for all dependents requiring care unless otherwise prohibited by this section. The State agency will not provide a reimbursement for a dependent age 13 or older unless the dependent is physically and/or mentally incapable of caring for himself or herself or is under court supervision. The State agency must provide a reimbursement for all dependents who are physically and/or mentally incapable of caring for themselves or who are under court supervision, regardless of age, if dependent care is necessary for the participation of a household member in the E&T program. The State agency will obtain verification of the physical and/or mental incapacity for dependents age 13 or older if the physical and/or mental incapacity is questionable. Also, the State agency will verify a court-imposed requirement for the supervision of a dependent age 13 or older if the need for dependent care is questionable. If more than one household member is required to participate in an E&T program, the State agency will reimburse the actual cost of dependent care or the applicable payment rate for child care, whichever is lowest, for each dependent in the household, regardless of the number of household members participating in the E&T program. An individual who is the caretaker relative of a dependent in a family receiving cash assistance under title IV–A of the Social Security Act in a local area where an employment, training, or education program under title IV–A is in operation is not eligible for such reimbursement. An E&T participant is not entitled to the dependent care reimbursement if a member of the E&T participant's food stamp household provides the dependent care services. The State agency must verify the participant's need for dependent care and the cost of the dependent care prior to the issuance of the reimbursement. The verification must include the name and address of the dependent care provider, the cost and the hours of service (e.g., five hours per day, five days per week for two weeks). A participant may not be reimbursed for dependent care services beyond that which is required for participation in the E&T program. In lieu of providing reimbursements for dependent care expenses, a State agency may arrange for dependent care through providers by the use of purchase of service contracts, by providing vouchers to the household or by other means. A State agency may require that dependent care provided or arranged by the State agency meet all applicable standards of State and local law, including requirements designed to ensure basic health and safety protections (e.g., fire safety). An E&T participant may refuse available appropriate dependent care as provided or arranged by the State agency, if the participant can arrange other dependent care or can show that such refusal will not prevent or interfere with participation in the E&T program as required by the State agency. A State agency may claim 50 percent of actual costs for dependent care services provided or arranged for by the State agency up to the actual cost of dependent care, the applicable payment rate for child care, or the Statewide limit, whichever is lowest.

(ii) The State agency will reimburse the actual costs of transportation and other costs (excluding dependent care costs) it determines to be necessary and directly related to participation in the E&T program up the maximum level of reimbursement established by the State agency. Such costs are the actual costs of participation unless the State agency has a method approved in its E&T Plan for providing allowances to participants to reflect approximate costs of participation. If a State agency has an approved method to provide allowances rather than reimbursements, it must provide participants an opportunity to claim actual expenses up to the maximum level of reimbursements established by the State agency. Only costs up to $25 per participant per month are subject to Federal cost sharing.

(iii) No participant cost that has been reimbursed under a workfare program under paragraph (m)(7)(i) of this section,

title IV of the Social Security Act or other work program will be reimbursed under this section.

(iv) Any portion of dependent care costs that are reimbursed under this section may not be claimed as an expense and used in calculating the dependent care deduction under § 273.9(d)(4) for determining benefits.

(v) The State agency must inform all mandatory E&T participants that they may be exempted from E&T participation if their monthly expenses that are reasonably necessary and directly related to participation in the E&T program exceed the allowable reimbursement amount. Persons for whom allowable monthly expenses in an E&T component exceed the amounts specified under paragraphs (d)(3)(i) and (d)(3)(ii) of this section are not required to participate in that component. These individuals will be placed, if possible, in another suitable component in which the individual's monthly E&T expenses would not exceed the allowable reimbursable amount paid by the State agency. If a suitable component is not available, these individuals will be exempt from E&T participation until a suitable component is available or the individual's circumstances change and his/her monthly expenses do not exceed the allowable reimbursable amount paid by the State agency. Dependent care expenses incurred that are otherwise allowable but not reimbursed because they exceed the reimbursable amount specified under paragraph (d)(3)(i) of this section will be considered in determining a dependent care deduction under § 273.9(d)(4).

(4) *Workfare cost sharing.* Enhanced cost-sharing due to placement of workfare participants in paid employment is available only for workfare programs funded under paragraph (m)(7)(iv) of this section at the 50 percent reimbursement level and reported as such.

(5) *Funding mechanism.* E&T program funding will be disbursed through States' Letters of Credit in accordance with § 277.5 of this chapter. The State agency must ensure that records are maintained that support the financial claims being made to FNS.

(6) *Fiscal recordkeeping and reporting requirements.* Total E&T expenditures are reported on the Financial Status Report (SF–269) in the column containing ''other'' expenses. E&T expenditures are also separately identified in an attachment to the SF–269 to show, as provided in instructions, total State and Federal E&T expenditures; expenditures funded with the unmatched Federal grants; State and Federal expenditures for participant reimbursements; State and Federal expenditures for E&T costs at the 50 percent reimbursement level; and State and Federal expenditures for optional workfare program costs, operated under section 20 of the Food Stamp Act and paragraph (m)(7) of this section. Claims for enhanced funding for placements of participants in employment after their initial participation in the optional workfare program will be submitted in accordance with paragraph (m)(7)(iv) of this section.

(e) *Employment and training programs.* Work registrants not otherwise exempted by the State agency are subject to the E&T program participation requirements imposed by the State agency. Such individuals are referred to in this section as E&T mandatory participants. Requirements may vary among participants. Failure to comply without good cause with the requirements imposed by the State agency will result in disqualification as specified in paragraph (f)(2) of this section.

(1) *Components.* To be considered acceptable by FNS, any component offered by a State agency must entail a certain level of effort by the participants. The level of effort should be comparable to spending approximately 12 hours a month for two months making job contacts (less in workfare or work experience components if the household's benefit divided by the minimum wage is less than this amount). However, FNS may approve components that do not meet this guideline if it determines that such components will advance program goals. An initial screening by an eligibility worker to determine whom to place in an E&T program does not constitute a component. The State agency may require Food Stamp Program applicants to participate in any component it offers in its E&T program at the time of application. The State agency must not impose requirements that would delay the determination of an individual's eligibility for benefits or in issuing benefits to any household that is otherwise eligible. In accordance with section 6(o)(1)(A) of the Food Stamp Act and § 273.24, job search and job search training, when offered as components of an E&T program, are not qualifying activities relating to the participation requirements necessary to maintain food stamp eligibility for ABAWDs. However, job search or job search training activities, when offered as part of other E&T program components, are acceptable as long as those activities comprise less than half the total required time spent in the components. An E&T program offered by a State agency must include one or more of the following components:

(i) A job search program. The State agency may require an individual to participate in job search from the time an application is filed for an initial period established by the State agency. Following this initial period (which may extend beyond the date when eligibility is determined) the State agency may require an additional job search period in any period of 12 consecutive months. The first such period of 12 consecutive months will begin at any time following the close of the initial period. The State agency may establish a job search period that, in its estimation, will provide participants a reasonable opportunity to find suitable employment. The State agency should not, however, establish a continuous, year-round job search requirement. If a reasonable period of job search does not result in employment, placing the individual in a training or education component to improve job skills will likely be more productive. In accordance with section 6(o)(1)(A) of the Food Stamp Act and § 273.24, a job search program is not a qualifying activity relating to the participation requirements necessary to maintain food stamp eligibility for ABAWDs. However, such a program, when operated under title I of the WIA, or under section 236 of the Trade Act, is considered a qualifying activity relating to the participation requirements necessary to maintain food stamp eligibility for ABAWDs.

(ii) A job search training program that includes reasonable job search training and support activities. Such a program may consist of job skills assessments, job finding clubs, training in techniques for employability, job placement services, or other direct training or support activities, including educational programs determined by the State agency to expand the job search abilities or employability of those subject to the program. Job search training activities are approvable if they directly enhance the employability of the participants. A direct link between the job search training activities and job-readiness must be established for a component to be approved. In accordance with section 6(o)(1) of the Food Stamp Act and § 273.24, a job search program is not a qualifying activity relating to the participation requirements necessary to maintain food stamp eligibility for ABAWDs. However, such a program, when operated under title I of the WIA or under section 236 of the Trade Act, is considered a qualifying activity relating to the participation

requirements necessary to maintain food stamp eligibility for ABAWDs.

(iii) A workfare program as described in paragraph (m) of this section.

(A) The participation requirements of section 20(b) of the Food Stamp Act and paragraphs (m)(5)(i)(A) and (m)(5)(i)(B) of this section for individuals exempt from Food Stamp Program work requirements under paragraphs (b)(1)(iii) and (b)(1)(v) of this section, are not applicable to E&T workfare components.

(B) In accordance with section 20(e) of the Food Stamp Act and paragraph (m)(6)(ii) of this section, the State agency may establish a job search period of up to 30 days following certification prior to making a workfare assignment. This job search activity is part of the workfare assignment, and not a job search ''program.'' Participants are considered to be participating in and complying with the requirements of workfare, thereby meeting the participation requirement for ABAWDs.

(C) The sharing of workfare savings authorized under section 20(g) of the Food Stamp Act and paragraph (m)(7)(iv) of this section are not available for E&T workfare components.

(iv) A program designed to improve the employability of household members through actual work experience or training, or both, and to enable individuals employed or trained under such programs to move promptly into regular public or private employment. Such an employment or training experience must:

(A) Not provide any work that has the effect of replacing the employment of an individual not participating in the employment or training experience program; and

(B) Provide the same benefits and working conditions that are provided at the job site to employees performing comparable work for comparable hours.

(v) A project, program or experiment such as a supported work program, or a WIA or State or local program aimed at accomplishing the purpose of the E&T program.

(vi) Educational programs or activities to improve basic skills or otherwise improve employability including educational programs determined by the State agency to expand the job search abilities or employability of those subject to the program. Allowable educational activities may include, but are not limited to, high school or equivalent educational programs, remedial education programs to achieve a basic literacy level, and instructional programs in English as a second language. Only educational components that directly enhance the employability of the participants are allowable. A direct link between the education and job-readiness must be established for a component to be approved.

(vii) A program designed to improve the self-sufficiency of recipients through self-employment. Included are programs that provide instruction for self-employment ventures.

(2) *Exemptions.* Each State agency may, at its discretion, exempt individual work registrants and categories of work registrants from E&T participation. Each State agency must periodically reevaluate its individual and categorical exemptions to determine whether they remain valid. Each State agency will establish the frequency of its periodic evaluation.

(3) *Time spent in an employment and training program.* (i) Each State agency will determine the length of time a participant spends in any E&T component it offers. The State agency may also determine the number of successive components in which a participant may be placed.

(ii) The time spent by the members of a household collectively each month in an E&T work program (including, but not limited to, those carried out under paragraphs (e)(1)(iii) and (e)(1)(iv) of this section) combined with any hours worked that month in a workfare program under paragraph (m) of this section must not exceed the number of hours equal to the household's allotment for that month divided by the higher of the applicable Federal or State minimum wage. The total hours of participation in an E&T component for any household member individually in any month, together with any hours worked in a workfare program under paragraph (m) of this section and any hours worked for compensation (in cash or in kind), must not exceed 120.

(4) *Voluntary participation.* (i) A State agency may operate program components in which individuals elect to participate.

(ii) A State agency must not disqualify voluntary participants in an E&T component for failure to comply with E&T requirements.

(iii) The hours of participation or work of a volunteer may not exceed the hours required of E&T mandatory participants, as specified in paragraph (e)(3) of this section.

(f) *Failure to comply* (1) *Ineligibility for failure to comply.* A nonexempt individual who refuses or fails without good cause, as defined in paragraphs (i)(2) and (i)(3) of this section, to comply with the Food Stamp Program work requirements listed under paragraph (a)(1) of this section is ineligible to participate in the Food Stamp Program, and will be considered an ineligible household member, pursuant to § 273.1(b)(7).

(i) As soon as the State agency learns of the individual's noncompliance it must determine whether good cause for the noncompliance exists, as discussed in paragraph (i) of this section. Within 10 days of establishing that the noncompliance was without good cause, the State agency must provide the individual with a notice of adverse action, as specified in § 273.13. If the State agency offers a conciliation process as part of its E&T program, it must issue the notice of adverse action no later than the end of the conciliation period.

(ii) The notice of adverse action must contain the particular act of noncompliance committed and the proposed period of disqualification. The notice must also specify that the individual may, if appropriate, reapply at the end of the disqualification period. Information must be included on or with the notice describing the action that can be taken to avoid the disqualification before the disqualification period begins. The disqualification period must begin with the first month following the expiration of the 10-day adverse notice period, unless a fair hearing is requested.

(iii) An E&T disqualification may be imposed after the end of a certification period. Thus, a notice of adverse action must be sent whenever the State agency becomes aware of an individual's noncompliance with Food Stamp Program work requirements, even if the disqualification begins after the certification period expires and the household has not been recertified.

(2) *Disqualification periods.* The following disqualification periods will be imposed:

(i) For the first occurrence of noncompliance, the individual will be disqualified until the later of:

(A) The date the individual complies, as determined by the State agency;

(B) One month; or

(C) Up to three months, at State agency option.

(ii) For the second occurrence, until the later of:

(A) The date the individual complies, as determined by the State agency;

(B) Three months; or

(C) Up to six months, at State agency option.

(iii) For the third or subsequent occurrence, until the later of:

(A) The date the individual complies, as determined by the State agency;

(B) Six months;

(C) A date determined by the State agency; or

(D) At the option of the State agency, permanently.

(3) *Record retention.* In accordance with § 272.1(f) of this chapter, State agencies are required to retain records concerning the frequency of noncompliance with FSP work requirements and the resulting disqualification actions imposed. These records must be available for inspection and audit at any reasonable time to ensure conformance with the minimum mandatory disqualification periods instituted.

(4) *Disqualification plan.* In accordance with § 272.2(d)(1)(xiii) of this chapter, each State agency must prepare and submit a plan detailing its disqualification policies. The plan must include the length of disqualification to be enforced for each occurrence of noncompliance, how compliance is determined by the State agency, and the State agency's household disqualification policy.

(5) *Household ineligibility.* (i) If the individual who becomes ineligible to participate under paragraph (f)(1) of this section is the head of a household, the State agency, at its option, may disqualify the entire household from Food Stamp Program participation.

(ii) The State agency may disqualify the household for a period that does not exceed the lesser of:

(A) The duration of the ineligibility of the noncompliant individual under paragraph (f)(2) of this section; or

(B) 180 days.

(iii) A household disqualified under this provision may reestablish eligibility if:

(A) The head of the household leaves the household;

(B) A new and eligible person joins the household as the head of the household, as defined in § 273.1(d)(2); or

(C) The head of the household becomes exempt from work requirements during the disqualification period.

(iv) If the head of the household joins another household as its head, that household will be disqualified from participating in the Food Stamp Program for the remaining period of ineligibility.

(6) *Fair hearings.* Each individual or household has the right to request a fair hearing, in accordance with § 273.15, to appeal a denial, reduction, or termination of benefits due to a determination of nonexempt status, or a State agency determination of failure to comply with Food Stamp Program work requirements. Individuals or households may appeal State agency actions such as exemption status, the type of requirement imposed, or State agency refusal to make a finding of good cause if the individual or household believes that a finding of failure to comply has resulted from improper decisions on these matters. The State agency or its designee operating the relevant component must receive sufficient advance notice to either permit the attendance of a representative or ensure that a representative will be available for questioning over the phone during the hearing. A representative of the appropriate agency must be available through one of these means. A household must be allowed to examine its E&T component casefile at a reasonable time before the date of the fair hearing, except for confidential information (that may include test results) that the agency determines should be protected from release. Confidential information not released to a household may not be used by either party at the hearing. The results of the fair hearing are binding on the State agency.

(7) *Failure to comply with a work requirement under title IV of the Social Security Act, or an unemployment compensation work requirement.* An individual exempt from Food Stamp Program work requirements by paragraphs (b)(1)(iii) or (b)(1)(v) of this section because he or she is subject to work requirements under title IV–A or unemployment compensation who fails to comply with a title IV–A or unemployment compensation work requirement will be treated as though he or she failed to comply with the Food Stamp Program work requirement.

(i) When a food stamp household reports the loss or denial of title IV–A or unemployment compensation benefits, or if the State agency otherwise learns of a loss or denial, the State agency must determine whether the loss or denial resulted when a household member refused or failed without good cause to comply with a title IV–A or unemployment compensation work requirement.

(ii) If the State agency determines that the loss or denial of benefits resulted from an individual's refusal or failure without good cause to comply with a title IV or unemployment compensation requirement, the individual (or household if applicable under paragraph (f)(5) of this section) must be disqualified in accordance with the applicable provisions of this paragraph (f). However, if the noncomplying individual meets one of the work registration exemptions provided in paragraph (b)(1) of this section (other than the exemptions provided in paragraphs (b)(1)(iii) and (b)(1)(v) of this section) the individual (or household if applicable under paragraph (f)(5) of this section) will not be disqualified.

(iii) If the State agency determination of noncompliance with a title IV–A or unemployment compensation work requirement leads to a denial or termination of the individual's or household's food stamp benefits, the individual or household has a right to appeal the decision in accordance with the provisions of paragraph (f)(6) of this section.

(iv) In cases where the individual is disqualified from the title IV–A program for refusal or failure to comply with a title IV–A work requirement, but the individual meets one of the work registration exemptions provided in paragraph (b)(1) of this section, other than the exemptions provided in paragraphs (b)(1)(iii) and (b)(1)(v) of this section, the State agency may, at its option, apply the identical title IV–A disqualification on the individual under the Food Stamp Program. The State agency must impose such optional disqualifications in accordance with section 6(i) of the Food Stamp Act and with the provisions of § 273.11(1).

(g) *Ending disqualification.* Except in cases of permanent disqualification, at the end of the applicable mandatory disqualification period for noncompliance with Food Stamp Program work requirements, participation may resume if the disqualified individual applies again and is determined by the State agency to be in compliance with work requirements. A disqualified individual may be permitted to resume participation during the disqualification period (if otherwise eligible) by becoming exempt from work requirements.

(h) *Suitable employment.* (1) Employment will be considered suitable unless:

(i) The wage offered is less than the highest of the applicable Federal minimum wage, the applicable State minimum wage, or eighty percent (80%) of the Federal minimum wage if neither the Federal nor State minimum wage is applicable.

(ii) The employment offered is on a piece-rate basis and the average hourly yield the employee can reasonably be expected to earn is less than the applicable hourly wages specified under paragraph (h)(1)(i) of this section.

(iii) The household member, as a condition of employment or continuing employment, is required to join, resign from, or refrain from joining any legitimate labor organization.

(iv) The work offered is at a site subject to a strike or lockout at the time

of the offer unless the strike has been enjoined under section 208 of the Labor-Management Relations Act (29 U.S.C. 78) (commonly known as the Taft-Hartley Act), or unless an injunction has been issued under section 10 of the Railway Labor Act (45 U.S.C. 160).

(v) It fails to meet additional suitability criteria established by State agencies.

(2) In addition, employment will be considered suitable unless the household member involved can demonstrate or the State agency otherwise becomes aware that:

(i) The degree of risk to health and safety is unreasonable.

(ii) The member is physically or mentally unfit to perform the employment, as documented by medical evidence or by reliable information from other sources.

(iii) The employment offered within the first 30 days of registration is not in the member's major field of experience.

(iv) The distance from the member's home to the place of employment is unreasonable considering the expected wage and the time and cost of commuting. Employment will not be considered suitable if daily commuting time exceeds 2 hours per day, not including the transporting of a child to and from a child care facility. Nor will employment be considered suitable if the distance to the place of employment prohibits walking and neither public nor private transportation is available to transport the member to the jobsite.

(v) The working hours or nature of the employment interferes with the member's religious observances, convictions, or beliefs.

(i) *Good Cause.* (1) The State agency is responsible for determining good cause when a food stamp recipient fails or refuses to comply with Food Stamp Program work requirements. Since it is not possible for the Department to enumerate each individual situation that should or should not be considered good cause, the State agency must take into account the facts and circumstances, including information submitted by the employer and by the household member involved, in determining whether or not good cause exists.

(2) Good cause includes circumstances beyond the member's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, the unavailability of transportation, or the lack of adequate child care for children who have reached age six but are under age 12.

(3) Good cause for leaving employment includes the good cause provisions found in paragraph (i)(2) of this section, and resigning from a job that is unsuitable, as specified in paragraphs (h)(1) and (h)(2) of this section. Good cause for leaving employment also includes:

(i) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin or political beliefs;

(ii) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;

(iii) Acceptance of employment by the individual, or enrollment by the individual in any recognized school, training program or institution of higher education on at least a half time basis, that requires the individual to leave employment;

(iv) Acceptance by any other household member of employment or enrollment at least half-time in any recognized school, training program or institution of higher education in another county or similar political subdivision that requires the household to move and thereby requires the individual to leave employment;

(v) Resignations by persons under the age of 60 which are recognized by the employer as retirement;

(vi) Employment that becomes unsuitable, as specified in paragraphs (h)(1) and (h)(2) of this section, after the acceptance of such employment;

(vii) Acceptance of a bona fide offer of employment of more than 30 hours a week or in which the weekly earnings are equivalent to the Federal minimum wage multiplied by 30 hours that, because of circumstances beyond the individual's control, subsequently either does not materialize or results in employment of less than 30 hours a week or weekly earnings of less than the Federal minimum wage multiplied by 30 hours; and

(viii) Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another such as migrant farm labor or construction work. There may be some circumstances where households will apply for food stamp benefits between jobs particularly in cases where work may not yet be available at the new job site. Even though employment at the new site has not actually begun, the quitting of the previous employment must be considered as with good cause if it is part of the pattern of that type of employment.

(4) *Verification.* To the extent that the information given by the household is questionable, as defined in § 273.2(f)(2), State agencies must request verification of the household's statements. The primary responsibility for providing verification, as provided in § 273.2(f)(5), rests with the household.

(j) *Voluntary quit and reduction of work effort.* (1) *Period for establishing voluntary quit and reduction of work effort.* For the purpose of establishing that a voluntary quit without good cause or reduction in work effort without good cause occurred prior to applying for food stamps, a State agency may, at its option, choose a period between 30 and 60 days before application in which to determine voluntary quit or reduction in work effort.

(2) *Individual ineligibility.* An individual is ineligible to participate in the Food Stamp Program if, in a period established by the State agency between 30 and 60 day before applying for food stamp benefits or at any time thereafter, the individual:

(i) Voluntarily and without good cause quits a job of 30 hours a week or more; or

(ii) Reduces his or her work effort voluntarily and without good cause and, after the reduction, is working less than 30 hours per week.

(3) *Determining whether a voluntary quit or reduction of work effort occurred and application processing.* (i) When a household files an application for participation, or when a participating household reports the loss of a source of income or a reduction in household earnings, the State agency must determine whether any household member voluntarily quit his or her job or reduced his or her work effort. Benefits must not be delayed beyond the normal processing times specified in § 273.2 pending the outcome of this determination.

(ii) The voluntary quit provision applies if the employment involved 30 hours or more per week or provided weekly earnings at least equivalent to the Federal minimum wage multiplied by 30 hours; the quit occurred within a period established by the State agency between 30 to 60 days prior to the date of application or anytime thereafter; and the quit was without good cause. Changes in employment status that result from terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered a voluntary quit for purposes of this paragraph (j). An employee of the Federal Government, or of a State or local government who participates in a strike against such government, and is dismissed from his or her job because of participation in the strike, will be

considered to have voluntarily quit his or her job without good cause. If an individual quits a job, secures new employment at comparable wages or hours and is then laid off or, through no fault of his own, loses the new job, the individual must not be disqualified for the earlier quit.

(iii) The reduction of work effort provision applies if, before the reduction, the individual was employed 30 hours or more per week; the reduction occurred within a period established by the State agency between 30 and 60 days prior to the date of application or anytime thereafter; and the reduction was voluntary and without good cause. The minimum wage equivalency does not apply when determining a reduction in work effort.

(iv) In the case of an applicant household, the State agency must determine if any household member subject to Food Stamp Program work requirements voluntarily quit his or her job or reduced his or her work effort within a period established by the State agency between 30 and 60 days prior to date of application. If the State agency learns that a household has lost a source of income or experienced a reduction in income after the date of application but before the household is certified, the State agency must determine whether a voluntary quit or reduction in work effort occurred.

(v) Upon determining that an individual voluntarily quit employment or reduced work effort, the State agency must determine if the voluntary quit or reduction of work effort was with good cause as defined in paragraph (i) of this section.

(vi) In the case of an individual who is a member of an applicant household, if the voluntary quit or reduction in work effort was without good cause, the individual will be determined ineligible to participate and will be disqualified according to the State agency's established minimum mandatory sanction schedule. The ineligible individual must be considered an ineligible household member, pursuant to § 273.1(b)(7). The disqualification is effective upon the determination of eligibility for the remaining household members. If the individual who becomes ineligible is the head of the household, as defined in § 273.1(d)(2), the State agency may choose to disqualify the entire household, in accordance with paragraph (f)(5) of this section. If the State agency chooses to disqualify the household, the State agency must provide the applicant household with a notice of denial in accordance with § 273.2(g)(3). The notice must inform the household of the proposed period of disqualification; its right to reapply at the end of the disqualification period; and of its right to a fair hearing. The household's disqualification is effective upon the issuance of the notice of denial.

(vii) In the case of an individual who is a member of a participating household, if the State agency determines that the individual voluntarily quit his or her job or reduced his or her work effort without good cause while participating in the program or discovers that the individual voluntarily quit his or her job or reduced his or her work effort without good cause during a period established by the State agency between 30 and 60 days prior to the date of application for benefits or between application and certification, the State agency must provide the individual with a notice of adverse action as specified in § 273.13 within 10 days after the determination of a quit or reduction in work effort. The notification must contain the particular act of noncompliance committed, the proposed period of ineligibility, the actions that may be taken to avoid the disqualification, and it must specify that the individual, if otherwise eligible, may resume participation at the end of the disqualification period if the State agency determines the individual to be in compliance with Program work requirements. The individual will be disqualified according to the State agency's established minimum mandatory sanction schedule. The ineligible individual must be considered an ineligible household member, pursuant to § 273.1(b)(7). The disqualification period will begin the first month following the expiration of the 10-day adverse notice period, unless the individual requests a fair hearing. If a voluntary quit or reduction in work effort occurs in the last month of a certification period, or is determined in the last 30 days of the certification period, the individual must be denied recertification for a period equal to the appropriate mandatory disqualification period, beginning with the day after the last certification period ends and continuing for the length of the disqualification, regardless of whether the individual reapplies for food stamps. Each individual has a right to a fair hearing to appeal a denial or termination of benefits due to a determination that the individual voluntarily quit his or her job or reduced his or her work effort without good cause. If the participating individual's benefits are continued pending a fair hearing and the State agency determination is upheld, the disqualification period must begin the first of the month after the hearing decision is rendered.

(viii) If the individual who voluntarily quit his or her job, or who reduced his or her work effort without good cause is the head of a household, as defined in § 273.1(d), the State agency, at its option, may disqualify the entire household from Food Stamp Program participation in accordance with paragraph (f)(5) of this section.

(4) *Ending a voluntary quit or a reduction in work disqualification.* Except in cases of permanent disqualification, following the end of the mandatory disqualification period for voluntarily quitting a job or reducing work effort without good cause, an individual may begin participation in the program if he or she reapplies and is determined eligible by the State agency. Eligibility may be reestablished during a disqualification and the individual, if otherwise eligible, may be permitted to resume participation if the individual becomes exempt from Program work requirements under paragraph (b)(1) of this section.

(5) *Application in the final month of disqualification.* Except in cases of permanent disqualification, if an application for participation in the Program is filed in the final month of the mandatory disqualification period, the State agency must, in accordance with § 273.10(a)(3), use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met.

(k) *Employment initiatives program.* (1) *General.* In accordance with section 17(d)(1)(B) of the Food Stamp Act, qualified State agencies may elect to operate an employment initiatives program, in which an eligible household can receive the cash equivalent of its food stamp coupon allotment.

(2) *State agency qualification.* A State agency qualifies to operate an employment initiatives program if, during the summer of 1993, at least half of its food stamp households also received cash benefits from a State program funded under title IV–A of the Social Security Act.

(3) *Qualified State agencies.* The State agencies of Alaska, California, Connecticut, the District of Columbia, Massachusetts, Michigan, Minnesota, New Jersey, West Virginia, and Wisconsin meet the qualification. These 10 State agencies may operate an employment initiatives program.

(4) *Eligible households.* A food stamp household in one of the 10 qualified State agencies may receive cash benefits

in lieu of a food stamp coupon allotment if it meets the following requirements:

(i) The food stamp household elects to participate in an employment initiatives program;

(ii) An adult member of the household:

(A) Has worked in unsubsidized employment for the last 90 days, earning a minimum of $350 per month;

(B) Is receiving cash benefits under a State program funded under title IV–A of the Social Security Act; or

(C) Was receiving cash benefits under the State program but, while participating in the employment initiatives program, became ineligible because of earnings and continues to earn at least $350 a month from unsubsidized employment.

(5) *Program Provisions.* (i) Cash benefits provided in an employment initiatives program will be considered an allotment, as defined at § 271.2 of this chapter.

(ii) An eligible household receiving cash benefits in an employment initiatives program will not receive any other food stamp benefit during the period for which cash assistance is provided.

(iii) A qualified State agency operating an employment initiatives program must increase the cash benefit to participating households to compensate for any State or local sales tax on food purchases, unless FNS determines that an increase is unnecessary because of the limited nature of items subject to the State or local sales tax.

(iv) Any increase in cash assistance to account for a State or local sales tax on food purchases must be paid by the State agency.

(6) *Evaluation.* After two years of operating an employment initiatives program, a State agency must evaluate the impact of providing cash assistance in lieu of a food stamp coupon allotment to participating households. The State agency must provide FNS with a written report of its evaluation findings. The State agency, with the concurrence of FNS, will determine the content of the evaluation.

(l) *Work supplementation program.* In accordance with section 16(b) of the Food Stamp Act, States may operate work supplementation (or support) programs that allow the cash value of food stamp benefits and public assistance, such as cash assistance authorized under title IV–A of the Social Security Act or cash assistance under a program established by a State, to be provided to employers as a wage subsidy to be used for hiring and employing public assistance recipients. The goal of these programs is to promote self-sufficiency by providing public assistance recipients with work experience to help them move into unsubsidized jobs. In accordance with § 272.2(d)(1)(xiv) of this chapter, State agencies that wish to exercise their option to implement work supplementation programs must submit to FNS for approval a plan that complies with the provisions of this paragraph (l). Work supplementation programs may not be implemented without prior approval from FNS.

(1) *Plan.* (i) *Assurances.* The plan must contain the following assurances:

(A) The individual participating in a work supplementation program must not be employed by the employer at the time the individual enters the program;

(B) The wage subsidy received under the work supplementation program must be excluded from household income and resources during the term the individual is participating in work supplementation;

(C) The household must not receive a separate food stamp allotment while participating in the work supplementation program;

(D) An individual participating in a work supplementation program is excused from meeting any other work requirements;

(E) The work supplementation program must not displace any persons currently employed who are not supplemented or supported;

(F) The wage subsidy must not be considered income or resources under any Federal, State or local laws, including but not limited to, laws relating to taxation, welfare, or public assistance programs, and the household's food stamp allotment must not be decreased due to taxation or any other reason because of its use as a wage subsidy;

(G) The earned income deduction does not apply to the subsidized portion of wages received in a work supplementation program; and

(H) All work supplemented or supported employees must receive the same benefits (sick and personal leave, health coverage, workmen's compensation, etc.) as similarly situated coworkers who are not participating in work supplementation and wages paid under a wage supplementation or support program must meet the requirements of the Fair Labor Standards Act and other applicable employment laws.

(ii) *Description.* The plan must also describe:

(A) The procedures the State agency will use to ensure that the cash value of food stamp benefits for participating households are not subject to State or local sales taxes on food purchases. The costs of increasing household food stamp allotments to compensate for such sales taxes must be paid from State funds;

(B) State agency, employer and recipient obligations and responsibilities;

(C) The procedures the State agency will use to provide wage subsidies to employers and to ensure accountability;

(D) How public assistance recipients in the proposed work supplementation program will, within a specified period of time, be moved from supplemented or supported employment to employment that is not supplemented or supported;

(E) Whether the food stamp allotment and public assistance grant will be frozen at the time a recipient begins a subsidized job; and

(F) The procedures the State agency will use to ensure that work supplementation program participants do not incur any Federal, State, or local tax liabilities on the cash value of their food stamp benefits.

(2) *Budget.* In addition to the plan described in paragraph (l)(1) of this section, an operating budget for the proposed work supplementation program must be submitted to FNS.

(3) *Approval.* FNS will review the initial plan and any subsequent amendments. Upon approval by FNS, the State agency must incorporate the approved work supplementation program plan or subsequent amendment into its State Plan of Operation and its operating budget must be included in the State agency budget. No plan or amendment may be implemented without approval from FNS.

(4) *Reporting.* State agencies operating work supplementation and support programs are required to comply with all FNS reporting requirements, including reporting the amount of benefits contributed to employers as a wage subsidy on the FNS–388, State Issuance and Participation Estimates; FNS–388A, Participation and Issuance by Project Area; FNS–46, Issuance Reconciliation Report; and SF–269, Addendum Financial Status Report. State agencies are also required to report administrative costs associated with work supplementation programs on the FNS–366A, Budget Projection and SF–269, Financial Status Report. Special codes for work supplementation programs will be assigned for reporting purposes.

(5) *Funding.* FNS will pay the cash value of a participating household's food stamp benefits to a State agency

with an approved work supplementation program to pay to an employer as a wage subsidy, and will also reimburse the State agency for related administrative costs, in accordance with Section 16 of the Food Stamp Act.

(6) *Quality control.* Cases in which a household member is participating in a work supplementation program will be coded as not subject to review.

(m) *Optional workfare program.* (1) *General.* This paragraph (m) contains the rules to be followed in operating a food stamp workfare program. In workfare, nonexempt food stamp recipients may be required to perform work in a public service capacity as a condition of eligibility to receive the coupon allotment to which their household is normally entitled. The primary goal of workfare is to improve employability and enable individuals to move into regular employment.

(2) *Program administration.* (i) A food stamp workfare program may be operated as a component of a State agency's E&T program, or it may be operated independently. If the workfare program is part of an E&T program it must be included as a component in the State agency's E&T plan in accordance with the requirements of paragraph (c)(4) of this section. If it is operated independent of the E&T program, the State agency must submit a workfare plan to FNS for its approval. For the purpose of this paragraph (m), a political subdivision is any local government, including, but not limited to, any county, city, town or parish. A State agency may implement a workfare program statewide or in only some areas of the State. The areas of operation must be identified in the State agency's workfare or E&T plan.

(ii) Political subdivisions are encouraged, but not required, to submit their plans to FNS through their respective State agencies. At a minimum, however, plans must be submitted to the State agencies concurrent with their submission to FNS. Workfare plans and subsequent amendments must not be implemented prior to their approval by FNS.

(iii) When a State agency chooses to sponsor a workfare program by submitting a plan to FNS, it must incorporate the approved plan into its State Plan of Operations. When a political subdivision chooses to sponsor a workfare program by submitting a plan to FNS, the State agency is responsible as a facilitator in the administration of the program by disbursing Federal funding and meeting the requirements identified in paragraph (m)(4) of this section. When it is notified that FNS has approved a workfare plan submitted by a political subdivision in its State, the State agency must append that political subdivision's workfare plan to its own State Plan of Operations.

(iv) The operating agency is the administrative organization identified in the workfare plan as being responsible for establishing job sites, assigning eligible recipients to the job sites, and meeting the requirements of this paragraph (m). The operating agency may be any public or private, nonprofit organization. The State agency or political subdivision that submitted the workfare plan is responsible for monitoring the operating agency's compliance with the requirements of this paragraph (m) or of the workfare plan. The Department may suspend or terminate some or all workfare program funding, or withdraw approval of the workfare program from the State agency or political subdivision that submitted the workfare plan upon finding that that State agency or political subdivision, or their respective operating agencies, have failed to comply with the requirements of this paragraph (m) or of the workfare plan.

(v) State agencies or other political subdivisions must describe in detail in the plan how the political subdivision, working with the State agency and any other cooperating agencies that may be involved in the program, will fulfill the provisions of this paragraph (m). The plan will be a one-time submittal, with amendments submitted as needed to cover any changes in the workfare program as they occur.

(vi) State agencies or political subdivisions submitting a workfare plan must submit with the plan an operating budget covering the period from the initiation of the workfare program's implementation schedule to the close of the Federal fiscal year. In addition, an estimate of the cost for one full year of operation must be submitted together with the workfare plan. For subsequent fiscal years, the workfare program budget must be included in the State agency's budget.

(vii) If workfare plans are submitted by more than one political subdivision, each representing the same population (such as a city within a county), the Department will determine which political subdivision will have its plan approved. Under no circumstances will a food stamp recipient be subject to more than one food stamp workfare program. If a political subdivision chooses to operate a workfare program and represents a population which is already, at least in part, subject to a food stamp workfare program administered by another political subdivision, it must establish in its workfare plan how food stamp recipients will not be subject to more than one food stamp workfare program.

(3) *Operating agency responsibilities.* (i) *General.* The operating agency, as designated by the State agency or other political subdivision that submits a plan, is responsible for establishing and monitoring job sites, interviewing and assessing eligible recipients, assigning eligible recipients to appropriate job sites, monitoring participant compliance, making initial determinations of good cause for household noncompliance, and otherwise meeting the requirements of this paragraph (m).

(ii) *Establishment of job sites.* Workfare job slots may only be located in public or private nonprofit agencies. Contractual agreements must be established between the operating agency and organizations providing jobs that include, but are not limited to, designation of the slots available and designation of responsibility for provision of benefits, if any are required, to the workfare participant.

(iii) *Notifying State agency of noncompliance.* The operating agency must notify the State agency of noncompliance by an individual with a workfare obligation when it determines that the individual did not have good cause for the noncompliance. This notification must occur within five days of such a determination so that the State agency can make a final determination as provided in paragraph (m)(4)(iv) of this section.

(iv) *Notifications.* (A) State agencies must establish and use notices to notify the operating agency of workfare-eligible households. The notice must include the case name, case number, names of workfare-eligible household members, address of the household, certification period, and indication of any part-time work. If the State agency is calculating the hours of obligation, it must also include this in the notice. If the operating agency is computing the hours to be worked, include the monthly allotment amount.

(B) Operating agencies must establish and use notices to notify the workfare participant of where and when the participant is to report, to whom the participant is to report, a brief description of duties for the particular placement, and the number of hours to be worked.

(C) Operating agencies must establish and use notices to notify the State agency of failure by a household to meet its workfare obligation.

(v) *Recordkeeping requirements.* (A) Files that record activity by workfare

participants must be maintained. At a minimum, these records must contain job sites, hours assigned, and hours completed.

(B) Program records must be maintained, for audit and review purposes, for a period of 3 years from the month of origin of each record. Fiscal records and accountable documents must be retained for 3 years from the date of fiscal or administrative closure of the workfare program. Fiscal closure, as used in this paragraph (m), means that workfare program obligations for or against the Federal government have been liquidated. Administrative closure, as used in this paragraph (m), means that the operating agency or Federal government has determined and documented that no further action to liquidate the workfare program obligation is appropriate. Fiscal records and accountable records must be kept in a manner that will permit verification of direct monthly reimbursements to recipients, in accordance with paragraph (m)(7)(iii) of this section.

(vi) *Reporting requirements.* The operating agency is responsible for providing information needed by the State agency to fulfill the reporting requirements contained in paragraph (m)(4)(v) of this section.

(vii) *Disclosure.* The provisions of § 272.1(c) of this chapter restricting the use and disclosure of information obtained from food stamp households is applicable to the administration of the workfare program.

(4) *State agency responsibilities.* (i) If a political subdivision chooses to operate a workfare program, the State agency must cooperate with the political subdivision in developing a plan.

(ii) The State agency must determine at certification or recertification which household members are eligible for the workfare program and inform the household representative of the nature of the program and of the penalties for noncompliance. If the State agency is not the operating agency, each member of a household who is subject to workfare under paragraph (m)(5)(i) of this section must be referred to the organization which is the operating agency. The information identified in paragraph (m)(3)(iv)(A) of this section must be forwarded to the operating agency within 5 days after the date of household certification. Computation of hours to be worked may be delegated to the operating agency.

(iii) The State agency must inform the household and the operating agency of the effect of any changes in a household's circumstances on the household's workfare obligation. This includes changes in benefit levels or workfare eligibility.

(iv) Upon notification by the operating agency that a participant has failed to comply with the workfare requirement without good cause, the State agency must make a final determination as to whether or not the failure occurred and whether there was good cause for the failure. If the State agency determines that the participant did not have good cause for noncompliance, a sanction must be processed as provided in paragraphs (f)(1)(i) and (f)(1)(ii) of this section. The State agency must immediately inform the operating agency of the months during which the sanction will apply.

(v) The State agency must submit quarterly reports to FNS within 45 days of the end of each quarter identifying for that quarter for that State:

(A) The number of households with workfare-eligible recipients referred to the operating agency. A household will be counted each time it is referred to the operating agency;

(B) The number of households assigned to jobs each month by the operating agency;

(C) The number of individuals assigned to jobs each month by the operating agency;

(D) The total number of hours worked by participants; and

(E) The number of individuals against which sanctions were applied. An individual being sanctioned over two quarters should only be reported as sanctioned for the earlier quarter.

(vi) The State agency may, at its option, assume responsibility for monitoring all workfare programs in its State to assure that there is compliance with this section and with the plan submitted and approved by FNS. Should the State agency assume this responsibility, it would act as agent for FNS, which is ultimately responsible for ensuring such compliance. Should the State agency determine that noncompliance exists, it may withhold funding until compliance is achieved or FNS directs otherwise.

(5) *Household responsibilities.* (i) *Participation requirement.* Participation in workfare, if assigned by the State agency, is a Food Stamp Program work requirement for all nonexempt household members, as provided in paragraph (a) of this section. In addition:

(A) Those recipients exempt from Food Stamp Program work requirements because they are subject to and complying with any work requirement under title IV of the Social Security Act are subject to workfare if they are currently involved less than 20 hours a week in title IV work activities. Those recipients involved 20 hours a week or more may be subject to workfare at the option of the political subdivision; and

(B) Those recipients exempt from Food Stamp Program work requirements because they have applied for or are receiving unemployment compensation are subject to workfare.

(ii) *Household obligation.* The maximum total number of hours of work required of a household each month is determined by dividing the household's coupon allotment by the Federal or State minimum wage, whichever is higher. Fractions of hours of obligation may be rounded down. The household's hours of obligation for any given month may not be carried over into another month.

(6) *Other program requirements.* (i) *Conditions of employment.* (A) A participant may be required to work a maximum of 30 hours per week. This maximum must take into account hours worked in any other compensated capacity (including hours of participation in a title IV work program) by the participant on a regular or predictable part-time basis. With the participant's consent, the hours to be worked may be scheduled in such a manner that more than 30 hours are worked in one week, as long as the total for that month does not exceed the weekly average of 30 hours.

(B) No participant will be required to work more than eight hours on any given day without his or her consent.

(C) No participant will be required to accept an offer of workfare employment if it fails to meet the criteria established in paragraphs (h)(1)(iii), (h)(1)(iv), (h)(2)(i), (h)(2)(ii), (h)(2)(iv), and (h)(2)(v) of this section.

(D) If the workfare participant is unable to report for job scheduling, to appear for scheduled workfare employment, or to complete the entire workfare obligation due to compliance with Unemployment Insurance requirements; other Food Stamp Program work requirements established in paragraph (a)(1) of this section; or the job search requirements established in paragraph (e)(1)(i) of this section, that inability must not be considered a refusal to accept workfare employment. If the workfare participant informs the operating agency of the time conflict, the operating agency must, if possible, reschedule the missed activity. If the rescheduling cannot be completed before the end of the month, that must not be considered as cause for disqualification.

(E) The operating agency must assure that all persons employed in workfare jobs receive job-related benefits at the

same levels and to the same extent as similar non-workfare employees. These are benefits related to the actual work being performed, such as workers' compensation, and not to the employment by a particular agency, such as health benefits. Of those benefits required to be offered, any elective benefit that requires a cash contribution by the participant will be optional at the discretion of the participant.

(F) The operating agency must assure that all workfare participants experience the same working conditions that are provided to non-workfare employees similarly employed.

(G) The provisions of section 2(a)(3) of the Service Contract Act of 1965 (Public Law 89–286), relating to health and safety conditions, apply to the workfare program.

(H) Operating agencies must not place a workfare participant in a work position that has the effect of replacing or preventing the employment of an individual not participating in the workfare program. Vacancies due to hiring freezes, terminations, or lay-offs must not be filled by workfare participants unless it can be demonstrated that the vacancies are a result of insufficient funds to sustain former staff levels.

(I) Workfare jobs must not, in any way, infringe upon the promotional opportunities that would otherwise be available to regular employees.

(J) Workfare jobs must not be related in any way to political or partisan activities.

(K) The cost of workers' compensation or comparable protection provided to workfare participants by the State agency, political subdivision, or operating agency is a matchable cost under paragraph (m)(7) of this section. However, whether or not this coverage is provided, in no case is the Federal government the employer in these workfare programs (unless a Federal agency is the job site). The Department does not assume liability for any injury to or death of a workfare participant while on the job.

(L) The nondiscrimination requirement provided in § 272.6(a) of this chapter applies to all agencies involved in the workfare program.

(ii) *Job search period.* The operating agency may establish a job search period of up to 30 days following certification prior to making a workfare assignment during which the potential participant is expected to look for a job. This period may only be established at household certification, not at recertification. The potential participant would not be subject to any job search requirements beyond those required under this section during this time.

(iii) *Participant reimbursement.* The operating agency must reimburse participants for transportation and other costs that are reasonably necessary and directly related to participation in the program. These other costs may include the cost of child care, or the cost of personal safety items or equipment required for performance of work if these items are also purchased by regular employees. These other costs may not include the cost of meals away from home. No participant cost reimbursed under a workfare program operated under Title IV of the Social Security Act or any other workfare program may be reimbursed under the food stamp workfare program. Only reimbursement of participant costs up to but not in excess of $25 per month for any participant will be subject to Federal cost sharing as provided in paragraph (m)(7) of this section. Reimbursed child care costs may not be claimed as expenses and used in calculating the child care deduction for determining household benefits. In accordance with paragraph (m)(4)(i) of this section, a State agency may decide what its reimbursement policy shall be.

(iv) *Failure to comply.* When a workfare participant is determined by the State agency to have failed or refused without good cause to comply with the requirements of this paragraph (m), the provisions of paragraph (f) of this section will apply.

(v) *Benefit overissuances.* If a benefit overissuance is discovered for a month or months in which a participant has already performed a workfare or work component requirement, the State agency must apply the claim recovery procedures as follows:

(A) If the person who performed the work is still subject to a work obligation, the State must determine how may extra hours were worked because of the improper benefit. The participant should be credited those extra hours toward future work obligations; and

(B) If a workfare or work component requirement does not continue, the State agency must determine whether the overissuance was the result of an intentional program violation, an inadvertent household error, or a State agency error. For an intentional program violation a claim should be established for the entire amount of the overissuance. If the overissuance was caused by an inadvertent household error or State agency error, the State agency must determine whether the number of hours worked in workfare are more than the number which could have been assigned had the proper benefit level been used in calculating the number of hours to work. A claim must be established for the amount of the overissuance not ''worked off,''' if any. If the hours worked equal the amount of hours calculated by dividing the overissuance by the minimum wage, no claim will be established. No credit for future work requirements will be given.

(7) *Federal financial participation*—(i) *Administrative costs.* Fifty percent of all administrative costs incurred by State agencies or political subdivisions in operating a workfare program will be funded by the Federal government. Such costs include those related to recipient participation in workfare, up to $25 per month for any participant, as indicated in paragraph (m)(6)(iii) of this section. Such costs do not include the costs of equipment, capital expenditures, tools or materials used in connection with the work performed by workfare participants, the costs of supervising workfare participants, the costs of reimbursing participants for meals away from home, or reimbursed expenses in excess of $25 per month for any participant. State agencies must not use any portion of their annual 100 percent Federal E&T allocations to fund the administration of optional workfare programs under section 20 of the Food Stamp Act and this paragraph (m).

(ii) *Funding mechanism.* The State agencies have responsibility for disbursing Federal funds used for the workfare program through the State agencies' Letters of Credit. The State agency must also assure that records are being maintained which support the financial claims being made to FNS. This will be for all programs, regardless of who submits the plan. Mechanisms for funding local political subdivisions which have submitted plans must be established by the State agencies.

(iii) *Fiscal recordkeeping and reporting requirements.* Workfare-related costs must be identified by the State agency on the Financial Status Report (Form SF–269) as a separate column. All financial records, supporting documents, statistical records, negotiated contracts, and all other records pertinent to workfare program funds must be maintained in accordance with § 277.12 of this chapter.

(iv) *Sharing workfare savings*—(A) *Entitlement.* A political subdivision is entitled to share in the benefit reductions that occur when a workfare participant begins employment while participating in workfare for the first time, or within thirty days of ending the first participation in workfare.

(1) To begin employment means to appear at the place of employment and to begin working.

(2) First participation in workfare means performing work for the first time in a particular workfare program. The only break in participation that does not end the first participation will be due to the participant's taking a job which does not affect the household's allotment by an entire month's wages and which is followed by a return to workfare.

(B) *Calculating the benefit reductions.* The political subdivision will calculate benefit reductions from each workfare participant's employment as follows.

(*1*) Unless the political subdivision knows otherwise, it will presume that the benefit reduction equals the difference between the last allotment issued before the participant began the new employment and the first allotment that reflects a full month's wages, earned income deduction, and dependent care deduction attributable to the new job.

(*2*) If the political subdivision knows of other changes besides the new job that affect the household's allotment after the new job began, the political subdivision will obtain the first allotment affected by an entire month's wages from the new job. The political subdivision will then recalculate the allotment to account for the wages, earned income deduction, and dependent care deduction attributable to the new job. In recalculating the allotment the political subdivision will also replace any benefits from a State program funded under title IV–A of the Social Security Act received after the new job with benefits received in the last month before the new job began. The difference between the first allotment that accounts for the new job and the recalculated allotment will be the benefit reduction.

(*3*) The political subdivision's share of the benefit reduction is three times this difference, divided by two.

(*4*) If, during these procedures, an error is discovered in the last allotment issued before the new employment began, that allotment must be corrected before the savings are calculated.

(C) *Accounting.* The reimbursement from workfare will be reported and paid as follows:

(*1*) The political subdivision will report its enhanced reimbursement to the State agency in accordance with paragraph (m)(7)(iii) of this section.

(*2*) The Food and Nutrition Service will reimburse the political subdivision in accordance with paragraph (m)(7)(ii) of this section.

(*3*) The political subdivision will, upon request, make available for review sufficient documentation to justify the amount of the enhanced reimbursement.

(*4*) The Food and Nutrition Service will reimburse only the political subdivision's reimbursed administrative costs in the fiscal year in which the workfare participant began new employment and which are acceptable according to paragraph (m)(7)(i) of this section.

(8) *Voluntary workfare program.* State agencies and political subdivisions may operate workfare programs whereby participation by food stamp recipients is voluntary. In such a program, the penalties for failure to comply, as provided in paragraph (f) of this section, will not apply for noncompliance. The amount of hours to be worked will be negotiated between the household and the operating agency, though not to exceed the limits provided under paragraph (m)(5)(ii) of this section. In addition, all protections provided under paragraph (m)(6)(i) of this section shall continue to apply. Those State agencies and political subdivisions choosing to operate such a program shall indicate in their workfare plan how their staffing will adapt to anticipated and unanticipated levels of participation. The Department will not approve plans which do not show that the benefits of the workfare program, in terms of hours worked by participants and reduced food stamp allotments due to successful job attainment, are expected to exceed the costs of such a program. In addition, if the Department finds that an approved voluntary program does not meet this criterion, the Department reserves the right to withdraw approval.

(9) *Comparable workfare programs.* In accordance with section 6(o)(2)(C) of the Food Stamp Act, State agencies and political subdivisions may establish programs comparable to workfare under this paragraph (m) for the purpose of providing ABAWDs subject to the time limits specified at § 273.24 a means of fulfilling the work requirements in order to remain eligible for food stamps. While comparable to workfare in that they require the participant to work for his or her household's food stamp allotment, these programs may or may not conform to other workfare requirements. State agencies or political subdivisions desiring to operate a comparable workfare program must meet the following conditions:

(i) The maximum number of hours worked weekly in a comparable workfare activity, combined with any other hours worked during the week by a participant for compensation (in cash or in kind) in any other capacity, must not exceed 30;

(ii) Participants must not receive a fourth month of food stamp benefits (the first month for which they would not be eligible under the time limit) without having secured a workfare position or without having met their workfare obligation. Participation must be verified timely to prevent issuance of a month's benefits for which the required work obligation is not met;

(iii) The State agency or political subdivision must maintain records to support the issuance of benefits to comparable workfare participants beyond the third month of eligibility; and

(iv) The State agency or political subdivision must provide a description of its program, including a methodology for ensuring compliance with (m)(9)(ii) of this section. The description should be submitted to the appropriate Regional office, with copies forwarded to the Food Stamp Program National office.

**§ 273.9 [AMENDED]**

9. In § 273.9:

a. Paragraph (c)(5)(i)(A) is amended by removing the reference to ''§ 273.7(d)(1)(ii)'' and adding in its place a reference to ''§ 273.7(d)(3)''.

b. Paragraph (c)(5)(i)(F) is amended by removing the reference to ''§ 273.7(d)(1)(ii)'' and adding in its place a reference to ''§ 273.7(d)(3)''.

c. Paragraph (c)(14) is amended by removing the references to ''§ 273.7(d)(1)(ii)'' and ''§ 273.7(d)(1)(ii)(A)'' and adding in their place reference to ''§ 273.7(d)(3)'' and ''§ 273.7(d)(3)(i)'' respectively.

d. Paragraph (d)(4) is amended by removing the reference to ''§ 273.7(f)'' and adding in its place a reference to ''§ 273.7(e)''.

**§ 273.22 [Removed and Reserved]**

10. Remove and reserve § 273.22.

11. In § 273.24:

a. Paragraphs (a)(5) and (a)(6) are removed.

b. Paragraph (b)(8) is removed.

c. Paragraph (c) heading and introductory text are revised.

d. Paragraphs (g), (h), (i), and (j) are revised.

The revisions read as follows:

**§ 273.24 Time limit for able-bodied adults.**

* * * * *

(c) *Exceptions.* The time limit does not apply to an individual if he or she is: * * *

* * * * * *

(g) *15 percent exemptions.* (1) For the purpose of establishing the 15 percent exemption for each State agency, the following terms are defined:

(i) *Caseload* means the average monthly number of individuals receiving food stamps during the 12-month period ending the preceding June 30.

(ii) *Covered individual* means a food stamp recipient, or an applicant denied eligibility for benefits solely because he or she received food stamps during the 3 months of eligibility provided under paragraph (b) of this section, who:

(A) Is not exempt from the time limit under paragraph (c) of this section;

(B) Does not reside in an area covered by a waiver granted under paragraph (f) of this section;

(C) Is not fulfilling the work requirements as defined in paragraph (a)(1) of this section; and

(D) Is not receiving food stamp benefits under paragraph (e) of this section.

(2) Subject to paragraphs (h) and (i) of this section, a State agency may provide an exemption from the 3-month time limit of paragraph (b) of this section for covered individuals. Exemptions do not count towards a State agency's allocation if they are provided to an individual who is otherwise exempt from the time limit during that month.

(3) For each fiscal year, a State agency may provide a number of exemptions such that the average monthly number of exemptions in effect during the fiscal year does not exceed 15 percent of the number of covered individuals in the State, as estimated by FNS, based on FY 1996 quality control data and other factors FNS deems appropriate, and adjusted by FNS to reflect changes in:

(i) The State agency's caseload; and

(ii) FNS's estimate of changes in the proportion of food stamp recipients covered by waivers granted under paragraph (f) of this section.

(4) State agencies must not discriminate against any covered individual for reasons of age, race, color, sex, disability, religious creed, national origin, or political beliefs. Such discrimination is prohibited by this part, the Food Stamp Act, the Age Discrimination Act of 1975 (Public Law 94–135), the Rehabilitation Act of 1973 (Public Law 93–112, section 504), and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d). Enforcement action may be brought under any applicable Federal law. Title VI complaints will be processed in accord with 7 CFR part 15.

(h) *Adjustments.* FNS will make adjustments as follows:

(1) *Caseload adjustments.* FNS will adjust the number of exemptions estimated for a State agency under paragraph (g)(2) of this section during a fiscal year if the number of food stamp recipients in the State varies from the State's caseload by more than 10 percent, as estimated by FNS.

(2) *Exemption adjustments.* During each fiscal year, FNS will adjust the number of exemptions allocated to a State agency based on the number of exemptions in effect in the State for the preceding fiscal year.

(i) If the State agency does not use all of its exemptions by the end of the fiscal year, FNS will increase the estimated number of exemptions allocated to the State agency for the subsequent fiscal year by the remaining balance.

(ii) If the State agency exceeds its exemptions by the end of the fiscal year, FNS will reduce the estimated number of exemptions allocated to the State agency for the subsequent fiscal year by the corresponding number.

(i) *Reporting requirement.* The State agency will track the number of exemptions used each month and report this number to the regional office on a quarterly basis as an addendum to the quarterly Employment and Training Report (Form FNS–583) required by § 273.7(c)(8).

(j) *Other Program rules.* Nothing in this section will make an individual eligible for food stamp benefits if the individual is not otherwise eligible for benefits under the other provisions of this part and the Food Stamp Act.

## PART 275—PERFORMANCE REPORTING SYSTEM

12. In § 275.12, paragraph (d)(1) is amended by removing the reference to ''§ 273.7(g)'' and adding in its place a reference to ''§ 273.7(f).''

## PART 277—PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

13. In § 277.4, paragraph (b)(8) is amended by removing the reference to ''§ 273.7(f)'' and adding in its place a reference to ''§ 273.7(d).''

Dated: June 7, 2002.

**Eric M. Bost,**

*Under Secretary, Food, Nutrition and Consumer Services.*

[FR Doc. 02–15294 Filed 6–18–02; 8:45 am]

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## DEPARTMENT OF THE TREASURY

## Office of the Comptroller of the Currency

## 12 CFR Part 28

**[Docket No. 02–10]**

**RIN 1557–AC05**

## International Banking Activities: Capital Equivalency Deposits

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Final rule.

**SUMMARY:** The OCC is amending its regulation regarding the capital equivalency deposits (CED) that foreign banks with Federal branches or agencies must establish and maintain. The OCC is revising certain requirements regarding CED deposit arrangements to increase flexibility for, and reduce burden on, certain Federal branches and agencies, based on a supervisory assessment of the risks presented by the particular institution.

**EFFECTIVE DATE:** This rule is effective on June 19, 2002.

**FOR FURTHER INFORMATION CONTACT:** Martha Clarke, Acting Assistant Director, Legislative and Regulatory Activities Division, 202–874–5090; or Carlos Hernandez, Senior International Advisor, International Banking and Finance Division, 202–874–4730.

**SUPPLEMENTARY INFORMATION:** On January 30, 2002, the OCC requested comment on an interim rule amending part 28. 67 FR 4325. The interim rule revised certain requirements regarding CED deposit arrangements to increase flexibility and reduce burden by permitting the OCC to impose deposit requirements based on the same supervision by risk approach that it uses in its supervision of national banks. The interim rule revised 12 CFR 28.15(d) to clarify that the OCC may vary the terms of a CED Agreement (Agreement) based on the circumstances and supervisory risks present at a particular branch or agency. For example, an Agreement may permit a foreign bank to withdraw assets from its CED account, thereby reducing the net value of the assets held in the account without OCC approval, as long as the withdrawal does not reduce the value below the minimum CED level required for that institution. Moreover, it may not be necessary in all cases for a foreign bank to pledge its CED assets to the OCC or for the depository bank to be a signatory to the Agreement unless required by the OCC. The OCC stated that it will make these determinations on a case-by-case basis,

consistent with its supervisory assessment of the risks presented by the particular institution.

The interim rule became effective immediately, but the OCC invited public comment on any aspect of the interim rule.

**Description of Comments Received and Final Rule**

The OCC received two comments. One comment strongly supported the revisions reflected in the interim rule. The commenter stated that the interim rule should alleviate the administrative burden associated with calculating, monitoring, and managing the CED requirement. The commenter also supported the incorporation of the risk-based approaches to regulation and supervision of international banking institutions into the CED requirement.

The second commenter stated that to some readers the rule could raise a question of whether the rule means that some foreign institutions would not be required to maintain a CED in the statutory minimum amount of five percent of liabilities. The proposed rule stated that the CED ''[m]ay not be reduced in value below the minimum required for that branch or agency without the prior approval of the OCC.'' The final rule clarifies that in no event could the OCC approve a reduction that is less than the statutory minimum for the particular Federal branch or agency.

For these reasons, the OCC is adopting the interim rule in final form without change, except for this clarification.

**Regulatory Flexibility Act**

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the OCC certifies that the rule will not have a significant economic impact on a substantial number of small entities. The rule will affect few small entities. The principal effect of the rule is to remove several requirements with respect to deposit arrangements for the CED and reduce burden on qualifying foreign banks with Federal branches and agencies.

**Unfunded Mandates Reform Act of 1995**

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the rule will not result in expenditures by State, local, or tribal governments or by the private sector of $100 million or more. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

**Executive Order 12866**

The OCC has determined that this rule does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

**Immediate Effective Date**

The final rule is effective immediately. Pursuant to 5 U.S.C. 553, agencies may issue a rule without public notice and comment when the agency, for good cause, finds that such notice and public comment are impracticable, unnecessary, or contrary to the public interest. Section 553 also permits agencies to issue a rule without delaying its effectiveness if the agency finds good cause for the immediate effective date.

The OCC finds good cause to issue this rule without a delayed effective date. Like the interim rule, the final rule will enable the OCC to make determinations on a case-by-case basis, consistent with its supervisory assessment of the risks presented by a particular institution. These determinations will relate to whether a foreign bank should continue to be required to pledge its CED assets to the OCC or to obtain the OCC's approval to reduce the aggregate value of the CED assets by withdrawal. These requirements may not be necessary for safety and soundness reasons for most highly rated foreign banks, and they, therefore, may impose unnecessary cost and burden. Elimination of needless resulting cost and burden warrants making this rule effective immediately so that qualifying foreign banks that do not pose safety or soundness issues may take advantage of its benefits immediately.

Subject to certain exceptions, 12 U.S.C. 4802(b)(1) provides that new regulations and amendments to regulations prescribed by a Federal banking agency that impose additional reporting, disclosure, or other new requirements on an insured depository institution must take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form. Like the interim rule, the final rule imposes no additional reporting, disclosure, or other new requirements on insured depository institutions. Instead it removes restrictions for qualifying foreign banks with Federal branches and agencies. For this reason, section 4802(b)(1) does not apply to this rulemaking.

**Paperwork Reduction Act**

The OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The information collection requirements contained in 12 CFR part 28 have been approved under OMB control number 1557–0102.

The information collection requirements contained in this rule are contained in section 28.15(d). Under this section as amended, capital equivalency deposits may not be reduced in value below the minimum required for that branch or agency without prior OCC approval, and Federal branches and agencies are required to maintain records.

*Estimated number of respondents:* 35.

*Estimated number of responses:* 35.

*Estimated burden hours per response:* 1 hour.

*Estimated number of recordkeepers:* 35.

*Estimated number of recordkeeping burden hours:* 35.

*Estimated total burden hours:* 35.

**List of Subjects in 12 CFR Part 28**

Foreign banking, National banks, Reporting and recordkeeping requirements.

**Authority and Issuance**

For the reasons set forth in the preamble, the OCC amends part 28 of chapter I of title 12 of the Code of Federal Regulations as follows:

## PART 28—INTERNATIONAL BANKING ACTIVITIES

1. The authority citation for part 28 continues to read as follows:

**Authority:** 12 U.S.C. 1 *et seq.*, 24(Seventh), 93a, 161, 602, 1818, 3101 *et seq.*, and 3901 *et seq.*

2. In § 28.15, paragraphs (d)(1) and (d)(2) are revised to read as follows:

**§ 28.15 Capital equivalency deposits.**

* * * * *

(d) * * *

(1) May not be reduced in value below the minimum required for that branch or agency without the prior approval of the OCC, but in no event below the statutory minimum;

(2) Must be maintained pursuant to an agreement prescribed by the OCC that shall be a written agreement entered into with the OCC for purposes of section 8 of the Federal Deposit Insurance Act, 12 U.S.C. 1818; and

* * * * *

Dated: June 12, 2002.

**John D. Hawke, Jr.,**

*Comptroller of the Currency.*

[FR Doc. 02–15429 Filed 6–18–02; 8:45 am]

BILLING CODE 4810–33–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 301

**[TD 9001]**

**RIN 1545–BA56**

## Disclosure of Return Information to Officers and Employees of the Department of Agriculture for Certain Statistical Purposes and Related Activities

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulation.

**SUMMARY:** This contains a final regulation relating to return information to be disclosed to the Department of Agriculture (Department) for use in conducting the Census of Agriculture. The regulation provides for the disclosure of an additional item of return information to the Department. The regulation provides guidance to IRS personnel responsible for disclosing the return information.

**DATES:** *Effective Date:* This final regulation is effective June 19, 2002.

*Applicability Date:* For dates of applicability of this final regulation, *see* § 301.6103(j)(5)–1(d).

**FOR FURTHER INFORMATION CONTACT:** Joseph Conley, 202–622–4580 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

Under section 6103(j)(5) of the Internal Revenue Code (Code), upon written request from the Secretary of Agriculture, the Secretary of the Treasury shall furnish such returns or return information as prescribed by Treasury regulation to officers and employees of the Department whose official duties require access to such returns or return information for the purpose of, but only to the extent necessary in, structuring, preparing, and conducting the Census of Agriculture pursuant to the Census of Agriculture Act of 1997. Currently, § 301.6103(j)(5)–1 provides an itemized description of the return information authorized to be disclosed for this purpose. By letter dated May 8, 2001, the Secretary of Agriculture requested that the Treasury Regulations be amended to authorize the disclosure of an additional item of return information, the taxpayer's telephone number contained on Form 1040/Schedule F.

This document adopts a final regulation that authorizes IRS personnel to disclose the additional item of return information that has been requested by the Secretary of Agriculture.

### Explanation of Provisions

This final regulation will permit the IRS to disclose to the Department, for its use in structuring, preparing, and conducting the Census of Agriculture, an additional item of return information, the taxpayer's telephone number provided on the Form 1040/Schedule F. According to the Department, the disclosure of this additional item of return information will improve the efficiency of the Department's list-building operations by reducing the potential for duplication in the Census of Agriculture. After receiving information from the IRS, the Department attempts to link such information to other records held by or available to the Department, doing so where possible on the basis of names, social security numbers or employer identification numbers, and addresses. The Department intends to use taxpayer telephone numbers to match records that cannot be matched otherwise or to determine that questionable links between records, such as those based merely on name and address information, constitute or do not constitute definite matches. By means of the matching process, the Department avoids duplicate contacts and furthers its classification of farms for Census of Agriculture purposes. The IRS will provide taxpayer telephone numbers to the Department under this final regulation with the understanding that the Department will only use them for such purpose, and that it will not use the information to telephone taxpayers.

### Special Analyses

Section 553 of the Administrative Procedure Act (5 U.S.C. chapter 5) requires that a notice of proposed rulemaking be published in the **Federal Register** and, after such notice, that the Federal agency that issued the notice give interested persons an opportunity to participate in the rulemaking through submission of written comments, with or without opportunity for oral presentation. These requirements are subject to certain exceptions, including when the agency for good cause finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest. Because the final regulation merely amends a preexisting regulation (§ 301.6103(j)(5)–(1) to add a single item of information to a list of such items, it is determined that the notice and public-comment procedure required by 5 U.S.C. 553 is unnecessary in this case pursuant to the exception in 5 U.S.C. 553(b)(3)(B). For the same reason, a delayed effective date is not required pursuant to 5 U.S.C. 553(d)(3).

It has also been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Pursuant to section 7805(f) of the Code, this regulation was submitted to the Chief Counsel of the Small Business Administration for comment on its impact on small business.

### Drafting Information

The principal author of this temporary regulation is Joseph Conley, Office of Associate Chief Counsel (Procedure & Administration), Disclosure and Privacy Law Division.

### List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

### Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

## PART 301—PROCEDURE AND ADMINISTRATION

**Paragraph 1**. The authority citation for part 301 is amended by adding an entry in numerical order to read in part as follows:

**Authority:** 26 U.S.C. 7805 * * *

Section 301.6103(j)(5)–1 also issued under 26 U.S.C. 6103(j)(5); * * *

**Par. 2**. Section 301.6103(j)(5)–1 is amended by:

1. Adding paragraph (b)(2)(xiv).

2. Revising paragraph (d).

The addition and revision read as follows:

**§ 301.6103(j)(5)–1 Disclosures of return information to officers and employees of the Department of Agriculture for certain statistical purposes and related activities.**

* * * * *

(b) * * *

(2) * * *

(xiv) Taxpayer telephone number.

* * * * *

(d) *Effective dates.* This section is applicable on July 31, 2001, except paragraph (b)(2)(xiv) which is applicable on June 19, 2002.

**Robert E. Wenzel,**

*Deputy Commissioner of Internal Revenue.*

Approved: June 10, 2002.

**Pamela F. Olson,**

*Acting Assistant Secretary of the Treasury.*

[FR Doc. 02–15351 Filed 6–18–02; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 917

**[KY–222–FOR]**

## Kentucky Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving a proposed amendment to the Kentucky regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kentucky proposed to revise the Kentucky Administrative Regulations (KAR) pertaining to the general requirements for mining on steep slopes. The approved amendment revises the Kentucky program to be consistent with the corresponding Federal regulations.

**EFFECTIVE DATE:** June 19, 2002.

**FOR FURTHER INFORMATION CONTACT:** William J. Kovacic, Field Office Director. Address: Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503. Telephone: (859) 260–8400.

Email: *bkovacic@osmre.gov.*

**SUPPLEMENTARY INFORMATION:**



### I. Background on the Kentucky Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * * ; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7).

On the basis of these criteria, the Secretary of the Interior conditionally approved the Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the May 18, 1982, **Federal Register** (47 FR 21404). You can also find later actions concerning the Kentucky program and previous amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17.

### II. Submission of the Amendment

By letter dated January 28, 2000, Kentucky sent us an amendment to its program (KY–222–FOR, Administrative Record No. KY–1469) under SMCRA (30 U.S.C. 1201 *et seq.*). Kentucky sent the amendment in response to the required program amendment at 30 CFR 917.16(d)(5). The proposed amendment establishes special performance standards and limited variance procedures for operations conducted on steep slopes by revising 405 KAR 20.060—Section 3(3)(b) and (c). The amendment is intended to revise the Kentucky program to be no less effective than the Federal regulations.

We announced receipt of the proposed amendment in the February 18, 2000, **Federal Register** (65 FR 8327). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on March 20, 2000. We did not receive any public comments.

By letter dated May 25, 2000 (Administrative Record No. KY–1476), Kentucky submitted the promulgated version of the regulation. No substantive changes were made from the original submission. Therefore, we did not reopen the comment period.

We received comments from two Federal agencies.

### III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. As discussed below, we are approving the amendment.

Any revisions that we do not specifically discuss below concern nonsubstantive wording or editorial changes.

Kentucky's amendment is responding to the required program amendment codified at 30 CFR 917.16(d)(5). 30 CFR 917.16(d)(5) provides that Kentucky must amend its program to:

> Clarify that the total volume of flow from the proposed permit area, during every season of the year, will not vary in a way that adversely affects the ecology of any surface water or any existing or planned use of surface or ground water; and to require the appropriate State environmental agency to approve the plan.

Kentucky has amended its program by establishing special performance standards and limited variance procedures for operations conducted on steep slopes by revising 405 KAR 20.060—Section 3(3)(b) and (c). Kentucky is requiring that the total volume of flow from the proposed permit area, during every season of the year, not vary in a way that adversely affects the ecology of any surface water or any existing or planned use of surface or ground water. Kentucky is also requiring that the Natural Resources and Environmental Protection Cabinet (Cabinet) consider any agency comments under subsection (2) of this section regarding watershed improvement.

*405 KAR 20:060 Section 3(3)(b)*

Kentucky is revising this paragraph by adding the words ''water or any existing or planned use of surface.'' As amended, paragraph (b) at section 3(3) provides that the total volume of flow from the proposed permit area, during every season of the year, will not vary in a way that adversely affects the ecology of any surface water or any existing or planned use of surface or ground water. We find that as amended, the Kentucky provision is identical to and, therefore, no less effective than the counterpart Federal regulations at 30 CFR 785.16(a)(3)(ii) and can be approved. This amendment satisfies part of the required regulatory program amendment codified in the Federal regulations at 30 CFR 917.16(d)(5).

*405 KAR 20:060 Section 3(3)(c)*

Kentucky is adding this new paragraph to provide that the Cabinet must have considered any agency comments under subsection (2) of 405 KAR 20:060 section 3, regarding watershed improvement. Subsection (2), which is part of the existing Kentucky program, offers Federal, State and local government agencies with an interest in the proposed land use an opportunity to review and comment on the proposed use. While there is no Federal counterpart to the Kentucky proposal, the amendment is consistent with the general permitting requirements at 30 CFR 773.6, which provides certain Federal, State and local governmental entities with notice and opportunity to comment on permit applications. Thus, the amendment is hereby approved.

Kentucky has also submitted an accompanying document entitled ''Federal Mandate Analysis Comparison'' (Administrative Record No. KY–1469). In that document, Kentucky acknowledges that its regulation does not include the requirement, contained in 30 CFR 785.16(a)(3)(iii), that ''the appropriate State environmental agency approves the [watershed improvement] plan,'' but contends that the ''Federal language is indefinite regarding the identity of the agency and regarding what 'plan' must be approved * * *'' Furthermore, Kentucky contends that this language is unnecessary for its program, because the Cabinet, which approves mining permits, is also the agency charged with approving watershed improvement plans. Therefore, the State argues, approval of any such plans, where necessary, will be ''accomplished by the Cabinet'' as part of the permit decision-making process. We believe that Kentucky's explanation of its watershed improvement plan approval procedure is sufficient to satisfy the remaining portion of the required regulatory program amendment codified in the Federal regulations at 30 CFR 917.16(d)(5). As such, the required amendment will be removed.

## IV. Summary and Disposition of Comments

*Public Comments*

We asked for public comments on the amendment (Administrative Record No. KY–1475), but did not receive any.

*Federal Agency Comments*

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Kentucky program (Administrative Record No. KY–1492). The request for comments was made on February 18, 2000.

Two comments were received. The Mine Safety and Health Administration concurred without comment. The Fish and Wildlife Service commented that the proposed amendment: (1) Disregards the Federal mandate to develop and implement a plan to improve watershed conditions; (2) is based on an apparent misinterpretation of the Federal mandate for the appropriate State environmental agency to review and approve the watershed improvement plan; and (3) disregards the Federal mandate to require reduced pollution or reduced flood hazards during peak discharges.

In response, we disagree with the commenter's contention that the amendment is inconsistent with the intent of 30 CFR 785.16(a)(3) because it omits the specific requirement to develop and implement a comprehensive watershed plan where steep slope variances are permitted. To the contrary, we believe the existing State program requirements are consistent with the Federal regulations. While subdivision 30 CFR 785.16(a)(3)(iii) refers to approval of a ''plan,'' the Federal regulations are otherwise silent as to what should be contained in the plan. Moreover, the current Kentucky program at 405 KAR 20:060 Section 3(3) requires the permit applicant to demonstrate that the watershed of lands within the proposed permit and adjacent areas will be improved by the operations. Because this demonstration, which is identical to the one required in the Federal regulations at 30 CFR 785.16(a)(3), must be contained in the permit application, it is tantamount to a ''plan'' for watershed improvement. Therefore, in this respect, the State program remains consistent with the corresponding Federal regulations.

The commenter next stated that the intent of 30 CFR 785.16 is for the State agency with the responsibility for general protection of aquatic systems to approve the watershed improvement plan. According to the commenter, the ''appropriate State environmental agency'' is required to approve the watershed improvement plan in order to maintain checks and balances within the permit review process. The commenter stated that the appropriate agency in Kentucky to approve watershed improvement plans is the Kentucky Division of Water (DOW), since that is the agency with responsibility for general protection of aquatic systems. The commenter believes that because the proposed amendment fails to specifically designate the DOW, as opposed to the Department for Surface Mining Reclamation and Enforcement (DSMRE), as the ''appropriate State environmental agency,'' the amendment ''appears to be based upon a misrepresentation of the Federal mandate for the 'appropriate State environmental agency' to approve the watershed improvement plan. We disagree with this comment for the reasons discussed below.

The preamble to the September 1, 1983, **Federal Register** notice announcing our approval of 30 CFR 785.16 states, in part, that ''[i]t is not possible on a national basis to specify precisely which environmental agencies must approve the planned improvement of the watershed. Within particular states, the regulatory authority should have little difficulty in discerning the particular agencies with expertise and /or responsibility for the watershed.'' 48 FR 39892, 39896. As noted above in the finding for 405 KAR 20:060 Section 3(3)(c), Kentucky has explained that the Cabinet is the agency with statewide environmental responsibilities. Three departments are under jurisdiction of the Cabinet, one of which is the DSMRE. The DOW is under the Department for Environmental Protection, a department also under the jurisdiction of the Cabinet. The Cabinet considers any comments from Federal, State, or local agencies that address the issue of watershed improvement.

The DSMRE has responsibility for implementing SMCRA. If a plan for watershed improvement is part of a SMCRA permit, DSMRE is responsible for its review. The proposed program amendment includes a request for comments by other agencies to ensure that the SMCRA plan demonstrates watershed improvement. In Kentucky, the DOW is given the opportunity to review and comment on all SMCRA permits. This would include watershed improvement plans. Therefore, we believe that the revised regulation at 405 KAR 20:060 Section 3(3)(c) is no less effective than 30 CFR 785.16(a)(3)(iii).

The commenter stated that the proposed amendment disregards the Federal regulations to require reduced pollution or reduced flood hazards during peak discharges. According to the commenter, ''[t]he amended State regulations would circumvent this requirement by allowing its substitution with increased streamflow during low flow periods.'' The language claimed by the commenter to be inconsistent with the Federal regulations is contained in the phrase ''* * * or there will be an increase in streamflow during times of the year when streams within the

watershed are normally at low flow or dry and the increase in streamflow is determined by the cabinet to be beneficial to public or private users or to the ecology of the streams.''

In response, we note that the quoted language is not newly proposed, as the commenter has asserted, but rather is already contained in the approved State program. Thus, comments on the language are not germane to this rulemaking.

*Environmental Protection Agency (EPA) Concurrence and Comments*

Under 30 CFR 732.17(h)(11)(i) and (ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). This amendment does not contain provisions that relate to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

On March 1, 2000, we requested comments from EPA on the amendment (administrative record no. KY–1492). EPA did not respond to our request.

*State Historic Preservation Officer (SHPO) and the Advisory Council or Historic Preservation (ACHP)*

Under 30 CFR 732.17(h)(4), we are required to request comments from SHPO and ACHP on amendments that may have an effect on historic properties. This amendment does not contain provisions that relate to historic properties. Therefore, we did not ask SHPO or ACHP to comment on this amendment.

## V. OSM's Decision

Based on the above findings, we approve the amendment Kentucky sent us on January 28, 2000. In addition, we are removing the required program amendment codified at 30 CFR 917.16(d)(5).

To implement this decision, we are amending the Federal regulations at 30 CFR Part 917, which codify decisions concerning the Kentucky program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the Kentucky program demonstrate that Kentucky has the capability of carrying out the provisions of the Act and meeting its purpose. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of Kentucky and Federal standards.

## VI. Procedural Determinations

*Executive Order 12630—Takings*

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

*Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

*Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

*Executive Order 13132—Federalism*

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

*Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

*National Environmental Policy Act*

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by the OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact

that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

*Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

**List of Subjects in 30 CFR Part 917**

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 14, 2002.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

## PART 917—KENTUCKY

1. The authority citation for Part 917 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 917.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

**§ 917.15 Approval of Kentucky regulatory program amendments.**

* * * * *

| Original amendment submission date | Date of final publication | Citation/description |
|---|---|---|
| * | * | * |
| January 28, 2000 | June 19, 2002 | 405 KAR 20:060 § 3(3)(b) 2000 and (c). |

3. Section 917.16 is amended by removing and reserving paragraph (d)(5).

[FR Doc. 02–15483 Filed 6–18–02; 8:45 am]

BILLING CODE 4310–05–P

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 165

**[COTP Los Angeles–Long Beach 02–010]**

**RIN 2115–AA97**

## Security Zones; Liquefied Hazardous Gas Tank Vessels, San Pedro Bay, CA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing moving and fixed security zones around liquefied hazardous gas (LHG) tank vessels located on San Pedro Bay, California, near the ports of Los Angeles and Long Beach. These actions are necessary to ensure public safety and prevent sabotage or terrorist acts against these vessels. Persons and vessels are prohibited from entering these security zones without permission of the Captain of the Port.

**DATES:** This rule is effective from 11:59 p.m. PDT on June 15, 2002 to 11:59 p.m. PST on December 21, 2002.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket COTP Los Angeles-Long Beach 02–010 and are available for inspection or copying at Coast Guard Marine Safety Office Los Angeles-Long Beach, 1001 South Seaside Avenue, Building 20, San Pedro, California, 90731, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Rob Griffiths, Chief of Waterways Management Division, at (310) 732–2020.

**SUPPLEMENTARY INFORMATION:**

### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Due to the terrorist attacks on September 11, 2001 and the warnings given by national security and intelligence officials, there is an increased risk that further subversive or terrorist activity may be launched against the United States. A heightened level of security has been established around all liquefied hazardous gas (LHG) tank vessels near the ports of Los Angeles and Long Beach. These security zones are needed to protect the United States and more specifically the people, waterways, and properties near San Pedro Bay. The original TFR was urgently required to prevent possible terrorist strikes against the United States and more specifically the people, waterways, and properties in the ports of Los Angeles-Long Beach. It was anticipated that we would assess the security environment at the end of the effective period to determine whether continuing security precautions were required and, if so, propose regulations responsive to existing conditions. We have determined the need for continued security regulations exists.

The Coast Guard will utilize the effective period of this TFR to engage in notice and comment rulemaking to develop permanent regulations tailored to the present and foreseeable security environment with the Captain of the Port (COTP) Los Angeles-Long Beach. Therefore, the public will still have the opportunity to comment on this rule. The measures contemplated by the rule were intended to facilitate ongoing response efforts and prevent future terrorist attack. In this case, doing a NPRM will be repetitious in nature and since delay is inherent in the NPRM process, any delay in the effective date of this rule, is contrary to the public interest insofar as it may render individuals and facilities within and adjacent to LHG tank vessels vulnerable to subversive activity, sabotage or terrorist attack. Immediate action is required to accomplish these objectives and necessary to continue safeguarding these vessels and the surrounding area. Any delay in the effective date of this rule is impractical and contrary to the public interest.

The Coast Guard will be publishing a NPRM to establish permanent security zones that are temporarily effective under this rule. This revision preserves the status quo within the Port while permanent rules are developed.

For the reasons stated in the paragraphs above under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

**Background and Purpose**

On September 11, 2001, terrorists launched attacks on commercial and public structures—the World Trade Center in New York and the Pentagon in Arlington, Virginia—killing large numbers of people and damaging properties of national significance. There is an increased risk that further subversive or terrorist activity may be launched against the United States based on warnings given by national security and intelligence officials. The Federal Bureau of Investigation (FBI) has issued warnings on October 11, 2001 and February 11, 2002 concerning the potential for additional terrorist attacks within the United States. In addition, the ongoing hostilities in Afghanistan have made it prudent for important facilities and vessels to be on a higher state of alert because Osama Bin Ladin and his Al Qaeda organization, and other similar organizations, have publicly declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

These heightened security concerns, together with the catastrophic impact that a terrorist attack against a LHG tank vessel would have to the public interest, makes these security zones prudent on the navigable waterways of the United States. To mitigate the risk of terrorist actions, the Coast Guard has increased safety and security measures on the navigable waterways of San Pedro Bay by establishing larger security zones around LHG tank vessels. Vessels operating near LHG tank vessels present possible platforms from which individuals may gain unauthorized access to these vessels or launch terrorist attacks upon these vessels or adjacent population centers. As a result, the Coast Guard is taking additional measures to prevent vessels or persons from accessing the navigable waters close to LHG tank vessels on San Pedro Bay.

On January 28, 2002, we published a temporary final rule for LHG tank vessels entitled ''Security Zones; San Pedro Bay, California'' in the **Federal Register** (67 FR 3814) under § 165.T11–062. It has been in effect since January 14, 2002 and is set to expire 11:59 p.m. PDT on June 15, 2002. As of today, the need for security zones around LHG tank vessels still exist. This new temporary final rule will begin 11:59 p.m. PDT on June 15, 2002 the exact time the previous LHG tank vessel security zone was in effect, and is set to expire 11:59 p.m. December 21, 2002. This will allow the Coast Guard time to publish a notice of proposed rulemaking (NPRM) in the **Federal Register**, which will include a public comment period, and for a final rule to be put into effect without there being an interruption in the protection provided by LHG tank vessel security zones.

In our previous rulemaking on LHG tank vessels, we temporarily suspended 33 CFR § 165.1151 and temporarily added the security zones provided for thereunder as § 165.T11–062. Title 33 CFR § 165.1151 provides for safety zones for LHG tank vessels while at anchor in designated anchorages in San Pedro Bay, while transiting San Pedro Bay, and while LHG tank vessels are moored at any berth within the Los Angeles or Long Beach port area. However, in light of the current terrorist threats to national security, these safety zones are insufficient to protect LHG tank vessels in San Pedro Bay. We continue to temporarily suspend § 165.1151 and temporarily add the security zones provided for hereunder as § 165.T11–066.

**Discussion of Rule**

This regulation establishes a security zone in the waters of San Pedro Bay around all LHG tank vessels that are anchored, moored, or underway within the Los Angeles or Long Beach port area. These security zones will take effect upon entry of any LHG tank vessel into the waters within three nautical miles outside the Federal breakwaters encompassing San Pedro Bay and will remain in effect until that vessel departs the three nautical mile limit. Vessels covered by a security zone can be additionally identified by an on scene escorting law enforcement vessel with a blue flashing light. The following areas are security zones:

(1) The waters within a 500 yard radius around a LHG tank vessel that is anchored at a designated anchorage either inside the Federal breakwaters bounding San Pedro Bay or outside at designated anchorages within three nautical miles of the breakwater;

(2) The waters within a 500 yard radius around a LHG tank vessel that is moored at any berth within the Los Angeles or Long Beach port area; and

(3) The waters within 1,000 yards ahead and 500 yards on all other sides of a LHG tank vessel that is underway on the waters either inside the Federal breakwaters bounding San Pedro Bay or on the waters within three nautical miles of the breakwater.

These security zones are needed for national security reasons to protect LHG tank vessels, the public, transiting vessels, adjacent waterfront facilities and the ports from potential subversive acts, accidents, or other events of a similar nature. Entry into these moving or fixed security zones is prohibited unless authorized by the Captain of the Port. Vessels already moored or anchored when these security zones take effect will not be required to get underway to avoid either the moving or fixed zones unless specifically ordered to do so by the Captain of the Port or his designated representative.

As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99–399), Congress amended the Ports and Waterways Safety Act (PWSA) to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. This authority, under section 7 of the PWSA (33 U.S.C. 1226), supplements the Coast Guard's authority to issue security zones under The Magnuson Act regulations promulgated by the President under 50 U.S.C. 191, including Subparts 6.01 and 6.04 of Part 6 of Title 33 of the Code of Federal Regulations.

Vessels or persons violating this section will be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192. Pursuant to 33 U.S.C. 1232, any violation of the security zone described herein, is punishable by civil penalties (not to exceed $27,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment up to 6 years and a maximum fine of $250,000), and in rem liability against the offending vessel. Any person who violates this section, using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation, also faces imprisonment up to 12 years. Vessels or persons violating this section are also subject to the penalties set forth in 50 U.S.C. 192: seizure and forfeiture of the vessel to the United States, a maximum criminal fine of $10,000, and imprisonment up to 10 years.

The Captain of the Port will enforce these zones and may enlist the aid and cooperation of any Federal, State, county, municipal, and private agency to assist in the enforcement of the regulation. This regulation is proposed under the authority of 33 U.S.C. 1226 in addition to the authority contained in 50 U.S.C. 191 and 33 U.S.C. 1231.

**Regulatory Evaluation**

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that

Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979) because these zones will encompass a small portion of the waterway for a limited period of time. Delays, if any, are expected to be less than thirty minutes in duration. Vessels and persons may be allowed to enter these zones on a case-by-case basis with permission of the Captain of the Port.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For the same reasons stated in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

We expect this rule will affect the following entities, some of which may be small entities: The owners and operators of private and commercial vessels intending to transit or anchor in a small portion of the ports of Los Angeles or Long Beach near a LHG tank vessel that are covered by these security zones. The impact to these entities would not, however, be significant since these security zones will encompass a small portion of the waterway for a limited period of time. Delays, if any, are expected to be less than thirty minutes in duration.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provision or operations for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

**Collection of Information**

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

**Federalism**

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

**Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

**Taking of Private Property**

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

**Civil Justice Reform**

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

**Protection of Children**

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

**Indian Tribal Governments**

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

**Energy Effects**

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

**Environment**

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation because we are establishing security zones. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

## PART 165–REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

**§ 165.1151 [Suspended]**

2. Temporarily suspend § 165.1151 from 11:59 p.m. PDT June 15, 2002 through 11:59 p.m. PST December 21, 2002.

3. Add new temporary § 165.T11–066 to read as follows:

**§ 165.T11–066 Security Zones; Liquefied Hazardous Gas Tank Vessels, San Pedro Bay, California.**

(a) *Definition.* ''Liquefied Hazardous Gas (LHG)'' as used in this section, is a liquid containing one or more of the products listed in Table 127.005 of 33 CFR 127.005 that is carried in bulk on board a tank vessel as liquefied petroleum gas, liquefied natural gas, or similar liquefied gas products.

(b) *Location.* The following areas are security zones:

(1) All waters of San Pedro Bay, from surface to bottom, within a 500 yard radius around a LHG tank vessel, while the vessel is anchored at a designated anchorage area either inside the Federal breakwaters bounding San Pedro Bay, or is anchored outside the breakwaters at designated anchorages within three nautical miles of the breakwaters;

(2) All waters of San Pedro Bay, from surface to bottom, within 500 yards of a LHG tank vessel, while the vessel is moored at any berth within the Los Angeles or Long Beach, California, port area, inside the Federal breakwaters bounding San Pedro Bay; and

(3) All waters of San Pedro Bay, from surface to bottom, within 1,000 yards ahead of and within 500 yards of all other sides of a LHG tank vessel, while the vessel is underway on the waters inside the Federal breakwaters, or on the waters extending three nautical miles outward from the Federal breakwaters.

(c) *Regulations.* (1) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Los Angeles-Long Beach, or his or her designated representative.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port at telephone number (800) 221–8724 or on VHF–FM channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or his or her designated representative.

(d) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

(e) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the security zones by the Los Angeles Port Police and the Long Beach Police Department.

(f) *Effective period.* This section is effective from 11:59 p.m. PDT on June 15, 2002 through 11:59 p.m. PST on December 21, 2002.

Dated: June 11, 2002.

**J.M. Holmes,**

*Captain, U.S. Coast Guard, Captain of the Port, Los Angeles-Long Beach.*

[FR Doc. 02–15388 Filed 6–18–02; 8:45 am]

**BILLING CODE 4910–15–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[OPP–2002–0057; FRL–7167–7]**

## Objections to Tolerances Established for Certain Pesticide Chemicals

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Availability of final rule objections; request for comments.

**SUMMARY:** On February 25, 2002, March 19, 2002, and May 7, 2002, the Natural Resources Defense Council (NRDC) filed objections with EPA regarding final rules establishing tolerances under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, for the following pesticides on the crops noted: 2,4-D (soybeans), halosulfuron methyl (melons, asparagus), pymetrozine (cotton, undelinted seed; cotton gin byproducts; fruiting vegetables; head and stem *Brassica* vegetables; cucurbit vegetables; leafy vegetables; leafy *Brassica* and turnip greens; hops, dried; and pecans), imidacloprid (blueberries), mepiquat (cottonseed; cotton, gin byproducts; meat byproducts of cattle, goats, hogs, horses, and sheep), bifenazate (apple, wet pomace; cotton, undelineted seed; cotton, gin byproducts, pome fruit group; grapes; grapes, raisins; hops, dried cones; nectarines; peaches; plums; strawberries; and milk, fat, meat, and meat byproducts of cattle, goats, horses, hogs, and sheep), zeta-cypermethrin (succulent, shelled peas and beans; dried, shelled peas and beans, except soybeans; soybean, seed; fruiting vegetables, except cucurbits; sorghum, grain, forage, stover; wheat, grain, forage, hay, straw; aspirated grain fractions; meat of cattle, goats, hogs, horses, sheep), diflubenzuron (pears). NRDC's objections concern a number of issues under section 408 of the FFDCA including the additional 10X safety factor for the protection of infants and children and aggregate exposure to pesticide chemical residues. This document seeks comment on the NRDC objections.

**DATES:** Comments, identified by docket ID number OPP–2002–0057, must be received on or before August 19, 2002.

**ADDRESSES:** Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0057 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** Peter Caulkins, Registration Division (MC7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6550; fax number: (703) 305–6920; e-mail address: caulkins.peter@epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Do These Objections Affect Me?*

This action is directed to the public in general. This action may, however, be of interest to agricultural producers, food manufacters, or pesticide manufacturers. Potentially affected categories and entities may include, but are not limited to:

| Categories | NAICS | Examples of Potentially Affected Entities |
|---|---|---|
| Industry | 111 | Crop production |
| | 112 | Animal production |
| | 311 | Food manufacturing |
| | 32532 | Pesticide manufacturing |

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities who may be affected by these objections. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in

determining whether or not these objections might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at *http://www.epa.gov/*. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the **Federal Register**—Environmental Documents. You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*.

2. *In person*. The Agency has established an official record for this action under docket ID number OPP–2002–0057. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

*C. How and to Whom Do I Submit Comments?*

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number OPP–2002–0057 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket ID number OPP–2002–0057. Electronic comments may also be filed online at many Federal Depository Libraries.

*D. How Should I Handle CBI that I Want to Submit to the Agency?*

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice or collection activity.

7. Make sure to submit your comments by the deadline in this final rule.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

**II. Background**

*A. What Action is the Agency Taking?*

EPA is publishing for comment objections received from NRDC concerning final rules establishing tolerances under FFDCA, 21 U.S.C. 346a, for five pesticide chemicals: Imidacloprid (blueberries), 67 FR 2580 (January 18, 2002) (FRL–6817–6); mepiquat (cottonseed; cotton, gin byproducts; meat byproducts of cattle, goats, hogs, horses, and sheep), 67 FR 3113 (January 23, 2002) (FRL–6818–7); bifenazate (apple, wet pomace; cotton, undelinted seed; cotton, gin byproducts, pome fruit group; grapes; grapes, raisins; hops, dried cones; nectarines; peaches; plums; strawberries; and milk, fat, meat, and meat byproducts of cattle, goats, horses, hogs, and sheep), 67 FR 4913 (February 1, 2002) (FRL–6818–3); zeta-cypermethrin (succulent, shelled peas and beans; dried, shelled peas and beans, except soybeans; soybean, seed; fruiting vegtables, except cucurbits; sorghum, grain, forage, stover; wheat, grain, forage, hay, straw; aspirated grain fractions; meat of cattle, goats, hogs, horses, sheep), 67 FR 6422 (February 12, 2002) (FRL–6818–8); diflubenzuron (pears), 67 FR 7085 (February 15, 2002) (FRL–6821–7). These objections were filed with the Agency on March 19, 2002. On February 25, 2002, NRDC had filed similar objections with EPA concerning final rules establishing tolerances for two pesticide chemicals: Halosulfuron methyl (melons, asparagus), 66 FR 66333 (December 26, 2001) (FRL–6816–8); 66 FR 66778 (December 27, 2001) (FRL–6816–1); and pymetrozine (cotton, undelinted seed; cotton gin byproducts; fruiting vegetables; head and stem Brassica vegetables; cucurbit vegetables; leafy vegetables; leafy Brassica and turnip greens; hops, dried; and pecans), 66 FR 66786 (December 27, 2001) (FRL–6804–

1). On May 7, 2002, NRDC filed objections with EPA concerning final rules establishing tolerances for the pesticide 2,4-D (soybeans), 67 FR 10622 (March 8, 2002) (FRL–6827–1). EPA is also requesting comment on these objections. The text of all sets of objections will be available on EPA's website at http://www.epa.gov/pesticides/tolerance/.

*B. What Issues Are Raised by the Objections?*

NRDC's objections raise a host of issues under FFDCA section 408, including:

1. Whether EPA correctly applied the provision addressing an additional 10X safety factor for the protection of children;

2. Whether farm children are a major identifiable population subgroup;

3. Whether EPA should consider occupational exposure in evaluating the safety of tolerances;

4. Whether EPA has included all residential exposures in calculating aggregate exposure to pesticide chemical residues;

5. Whether safety findings under section 408 can be made on the basis of a lowest-observed-adverse-effect-level (LOAEL) rather than a no-observed-adverse-affect-level (NOAEL);

6. Whether safety findings under section 408 can be made when risk is assessed using exposure estimates based on population percentiles lower than 99.9%; and

7. Whether EPA has adequately considered exposure levels in foods purchased at farm stands. The objections also raise various pesticide-specific issues as to some of the tolerances.

*C. Why is EPA Seeking Public Comment on These Objections?*

Because several of the issues raised by NRDC concern matters of great interest not just to NRDC but to growers, food distributors and processors, and pesticide manufacturers as well as members of the public, EPA believes it decision-making will be enhanced by obtaining the views of all affected parties. For that reason, EPA has established a 60–day comment period.

*D. Why is EPA Only Publishing One Set of NRDC's Objections?*

Although NRDC has filed three separate sets of objections, EPA is only publishing the second set of those objections in the **Federal Register**. EPA, however, is seeking comment on all three sets of objections. The first and third sets of objections are not being published in the **Federal Register** simply because much of them duplicate arguments made more fully in the second set of objections. All three sets of objections are available on EPA's website at http://www.epa.gov/pesticides/tolerance/. Additional tolerance objections received will also be posted.

*E. What Process Will EPA Follow in Ruling on the Objections?*

Under section 408(g)(2)(A) of the FFDCA, any person may file objections with EPA within 60 days of issuance of a final tolerance regulation. 21 U.S.C. 346a(g)(2). Such person may also request a public evidentiary hearing on the objections; however, NRDC has not requested such a hearing. Under EPA regulations, EPA must publish an order setting forth its determination on each of NRDC's objections. 40 CFR 178.37(a). Such order must contain EPA's reasons for its determination. 40 CFR 178.37(b). If based on the objections EPA determines that the tolerance regulation should be modified or revoked, EPA will publish by order any revisions to the regulation. 21 U.S.C. 346a(g)(2)(C); 40 CFR 178.35.

## III. Objections to the Establishment of Tolerances for Pesticide Chemical Residues

The text of this objection is published with minor editorial changes.

*OPP–301204 (Imidacloprid)*

*OPP–301209 (Mepiquat)*

*OPP–301206 (Bifenazate)*

*OPP–301207 (Zeta-cypermethrin)*

*OPP–301213 (Diflubenzuron)*

Pursuant to 21 U.S.C. 346a(g) and 40 CFR part 180, NRDC makes the following objections:

1. NRDC objects to the regulation issued under 21 U.S.C. 346a(l)(6), establishing a time-limited tolerance for pesticide chemical residues of imidacloprid until December 31, 2003. **Federal Register** (67 FR 2580, January 18, 2002) (FRL–6817–6).

2. NRDC objects to the regulation issued under 21 U.S.C. 346a(d)(4), establishing a tolerance for pesticide chemical residues of mepiquat. **Federal Register** (67 FR 3113, January 23, 2002) (FRL–6818–7).

3. NRDC objects to the regulation issued under 21 U.S.C. 346a(d)(4), establishing a tolerance for pesticide chemical residues of bifenazate. **Federal Register** (67 FR 4913, February 1, 2002) (FRL–6818–3).

4. NRDC objects to the regulation issued under 21 U.S.C. 346a(d)(4), establishing a tolerance for pesticide chemical residues of zeta-cypermethrin. **Federal Register** (67 FR 6422, February 12, 2002) (FRL–6818–8).

5. NRDC objects to the regulation issued under 21 U.S.C. 346a(d)(4), establishing a tolerance for pesticide chemical residues of diflubenzuron. **Federal Register** (67 FR 7085, February 15, 2002) (FRL–6821–7).

As discussed below in section III, of these objections, NRDC requests a waiver of the tolerance objection fees pursuant to 40 CFR 180.33(m).

*I. Introduction*

Under FFDCA, as amended by the Food Quality Protection Act (FQPA), EPA may only establish a tolerance for pesticide chemical residues in or on a food if EPA determines that the tolerance ''is safe.'' 21 U.S.C. 346a(b)(2)(A)(i). A tolerance will meet this requirement only if ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' *Id.* Section 346a(b)(2)(A)(ii). The health-protective standard of the FQPA requires EPA to give special consideration to the health of infants and children, and EPA must ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue.'' *Id.* Section 346a(b)(2)(C)(ii)(i).

EPA has violated the requirements of the FQPA in establishing new tolerances for imidacloprid, mepiquat, bifenazate, zeta-cypermethrin, and diflubenzuron—published at 67 FR 2580 (Jan. 18, 2002) (imidacloprid), 67 FR 3113 (Jan. 23, 2002) (mepiquat), 67 FR 4913 (Feb. 1, 2002) (bifenazate), 67 FR 6422 (Feb. 12, 2002) (zeta-cypermethrin), and 67 FR 7085 (Feb. 15, 2002) (diflubenzuron). With respect to all five pesticides, EPA failed to apply the children's 10X safety factor, acknowledge and consider farm children as a major identifiable subgroup, take into consideration reliable data concerning occupational exposure, or fully assess aggregate exposures. For imidacloprid, mepiquat, and zeta-cypermethrin, EPA failed to regulate on the basis of a no-observed-effect-level (NOEL). With respect to imidacloprid and mepiquat, EPA additionally failed to protect all infants and children and not just those within a certain percentile, and as a result left potentially more than a million children unprotected. With respect to diflubenzuron, EPA failed to guarantee that legal food will be safe food based on exposure to pesticide chemical residues at the tolerance level. Finally, for imidacloprid, EPA also violated the FQPA by improperly relying on percent of crop treated in assessing dietary exposure.

*II. Grounds for the Objections*

A. In Establishing These Tolerances, EPA Improperly Failed to Apply the Children's 10X Safety Factor

In establishing tolerances for imidacloprid, mepiquat, bifenazate, zeta-cypermethrin, and diflubenzuron, EPA failed to include an additional 10X safety factor for infants and children as required by the FQPA. Under the FQPA's precautionary approach to protecting children, EPA must maintain an additional 10–fold margin of safety in its risk assessments for individual pesticides to ''take into account potential pre-natal and post-natal developmental toxicity and completeness of the data with respect to exposure and toxicity to infants and

children.'' 21 U.S.C. 346a(b)(2)(C). EPA can use a different margin of safety ''only if, on the basis of reliable data, such margin will be safe for infants and children.'' *Id.* Yet there are significant toxicity and exposure data gaps for each of these new tolerances established by EPA. In addition, EPA has acknowledged that it lacks necessary and required data to assess toxicity to the developing brain and nervous system for imidacloprid, mepiquat, and zeta-cypermethrin in particular, and therefore lacks the ''reliable data'' necessary under the FQPA to authorize a different margin of safety.

The regulations establishing new tolerances for imidacloprid, mepiquat, bifenazate, zeta-cypermethrin, and diflubenzuron reveal toxicity and exposure data gaps for each pesticide:

1. *Imidacloprid*. EPA is establishing time-limited tolerances for imidacloprid residues on blueberries in two States—New Jersey and Michigan. (67 FR 2581, January 18, 2002) (FRL–6817–6). But in measuring dietary exposure to imidacloprid as a result of these tolerances, EPA relied on estimated *national* consumption data and not regional or State-specific data. **Federal Register** 64 FR 39045 (July 21, 1999) (FRL–6485–4). EPA acknowledged that it ''does not have available information on the regional consumption of food to which imidacloprid may be applied in a particular area.'' *Id.* This data gap is of particular importance because of the nature of the food at issue—fresh blueberries are likely to be most heavily consumed locally, near where they are picked. In other words, consumers in New Jersey and Michigan are most likely to eat blueberries grown in New Jersey and Michigan (and therefore treated with imidacloprid). Many ''U-Pick'' farms are located in New Jersey and Michigan, leading to likely elevated exposures due to immediate consumption and due to the presence of consumers in the fields. Use of national data to assess the dietary exposure of consumers in particular regions is especially inappropriate where the tolerance is approved only for specific regions. By using national data, EPA will underestimate the dietary exposure of consumers in New Jersey and Michigan, who are the most exposed to imidacloprid residues on blueberries.

This is the case because consumers in New Jersey and Michigan are likely to eat more blueberries than the national average because of their ready availability, cost, proximity to market, and freshness, and they are more likely to eat locally grown blueberries containing imidacloprid residues than the average U.S. consumer. A child eating blueberries in one of these two high-imidacloprid-use States will certainly stand a greater chance of consuming a greater amount of imidacloprid—when local blueberries are ripe and plentiful—than national consumption data (which is not seasonal, but is averaged throughout the year) would suggest. Additional outstanding data requirements include prospective groundwater monitoring studies, a residential short-term risk assessment, and a developmental neurotoxicity study that is 2 1/2 years overdue (discussed further below). (64 FR 39045, 39046).

2. *Mepiquat*. There are several outstanding data requirements for mepiquat, including side-by-side residue field trials and a developmental neurotoxicity study that is over 2 years overdue. (67 FR 3116, January 23, 2002) (FRL–6818–7); (65 FR 1790, 1794, Jan. 12, 2000).

3. *Bifenazate*. Data gaps for bifenazate include a developmental toxicity assessment, short-, medium-, and long-term inhalation exposure studies, and an assessment of drinking water exposure to bifenazate degradates. (67 FR 4915, 4917, 4918, Feb. 1, 2002).

4. *Zeta-cypermethrin*. The toxicity and exposure assessments of zeta-cypermethrin are incomplete because EPA explicitly failed to address drinking water exposure to zeta-cypermethrin degradates, and a required developmental neurotoxicity study has not been completed. 67 FR 6425, 6426 (Feb. 12, 2002).

5. *Diflubenzuron*. Data gaps include missing residue chemistry and toxicology data for two diflubenzuron metabolites, deemed necessary by EPA to justify an unconditional registration. 67 FR 7090 (Feb. 15, 2002).

In addition to the above data gaps, for all five pesticides EPA has failed to collect pesticide-specific data on water-based exposure, rendering it impossible to find that ''reliable data'' exist to reduce the tenfold safety factor. 64 FR 39045 (July 21, 2002) (imidacloprid); 67 FR 3115 (Jan. 23, 2002) (mepiquat); 67 FR 4918 (Feb. 1, 2002) (bifenazate); 67 FR 6425 (Feb. 12, 2002) (zeta-cypermethrin); 67 FR 7088 (Feb. 15, 2002) (diflubenzuron). The use of predictive models to estimate drinking water exposure to these pesticides serves as a stop-gap measure, but cannot take the place of actual ''reliable data'' that justify removing the statutory tenfold safety factor. Because EPA has used modeling scenarios to approximate drinking water exposure to these pesticides, it has not relied on any data at all—only predictions that are, in NRDC's view, not conservative. Relying only on modeling results, in the absence of any reliable and confirmatory monitoring data, results in an additional data gap that prevents EPA from overturning the presumptive 10X safety factor. In addition, for all five pesticides EPA failed adequately to consider important exposure routes for millions of infants and children, including exposure to children living on farms and who accompany their parents into farm fields (see discussion of farm children below), and exposure from spray drift. All of these deficiencies in toxicity and exposure data preclude EPA's removal of the presumptive 10X safety factor. 21 U.S.C. 346a(b)(2)(C). Furthermore, the absence of required developmental neurotoxicity (DNT) tests for imidacloprid, mepiquat, and zeta-cypermethrin is a crucial data gap that by itself should prohibit EPA from overturning the default 10X safety factor. In its 1993 report, Pesticides in the Diets of Infants and Children, the National Academy of Sciences/National Research Council cited strong evidence that pesticide exposures may disrupt the normal development of a child's brain and nervous system. More conclusive evidence has since been published supporting this finding1. Studies by EPA staff scientist Dr. Makris show that DNT testing is more sensitive than other studies in measuring the effects of exposure on proper development of the brain and nervous system, and therefore DNT testing is more appropriate for protecting children's health. DNT testing is essential for pesticides, not only as a measure of toxicity to the developing brain and nervous system, but also as an often more sensitive measure of developmental and reproductive effects generally8. EPA's 10X Task Force has recommended that developmental neurotoxicity testing be included as part of the minimum core toxicology data set for all chemical food-use pesticides for which a tolerance would be set. *See* 10X Task Force, EPA, *Toxicology Data Requirements for Assessing Risks of Pesticide Exposure to Children's Health (draft)*, Nov. 30, 1998, at 11. Although DNT testing has not yet been incorporated in the minimum core toxicology data set for all pesticides, EPA has required DNT studies on a case-by-case basis for particular pesticides, including imidacloprid, mepiquat, and zeta-cypermethrin. 64 FR 39046 (imidacloprid); 67 FR 3116 (Jan. 23, 2002) (mepiquat); 67 FR 6426 (Feb. 12, 2002) (zeta-cypermethrin). In spite of this, in establishing new tolerances, the Agency failed to retain the presumptive FQPA 10X safety factor for any of these pesticides. EPA has expressly acknowledged that DNT testing is necessary and required to assess the risks of imidacloprid, mepiquat, and zeta-cypermethrin, and these studies are still missing. 64 FR 39046; 67 FR 3116 (Jan. 23, 2002); 67 FR 6426 (Feb. 12, 2002). These critical data gaps make it impossible to assess the neurotoxic effects of these pesticides to fetuses, infants, and children. The FQPA neither requires nor justifies regulatory delay in order to collect this additional data. The potential future submission of DNT studies for these pesticides does not justify removing 10X in anticipation of those studies; EPA must use the 10–fold safety factor to protect children's health while the data is missing. 21 U.S.C. 346a(b)(2)(C). Even though these conditions have been unfulfilled, and DNT results are required and overdue, EPA has established new tolerances for imidacloprid, mepiquat, and zeta-cypermethrin. In doing so, EPA failed to apply the required 10X safety factor for children that is intended to compensate for just such data gaps. *Id.* (Interestingly, EPA justified removing 10X for diflubenzuron because a DNT test was *not* required for that pesticide, 67 FR 7089, yet EPA did not deem the *requirement* of DNT tests for the other pesticides sufficient justification to maintain 10X.)

EPA's recently released 10X policy paper attempts to justify the Agency's decision to ignore 10X even in the absence of required DNT studies. See OPP, EPA, Determination of the Appropriate FQPA Safety Factor(s) in Tolerance Assessment, Feb. 28, 2002, at 23–25. EPA states: [S]imply because OPP has required a DNT for a particular pesticide does not necessarily mean that a database uncertainty factor is needed. However, if the available information indicates that a DNT

study is likely to identify a new hazard or effects at lower dose levels of the pesticide that could significantly change the outcome of its overall risk assessment, the database uncertainty factor should be considered. *Id.* at 24. This position is untenable. The FQPA requires that an additional 10X safety factor must be applied; this burden can be overcome ''only if, on the basis of reliable data, such margin will be safe for infants and children.'' 21 U.S.C. 346a(b)(2)(C). EPA's approach to required DNT studies completely reverses this presumption and declares that, *even in the absence of required data on neurotoxicity for developing fetuses, infants, and children*, the default 10X safety factor can be removed if the missing data is not ''expected'' to ''significantly change the outcome'' of the overall risk assessment. Under this approach, the removal of the safety factor is based not upon the statutorily demanded ''reliable data,'' but upon the risk assessor's expectation-his or her intuition or professional judgment. The FQPA cannot accommodate this counterintuitive and underprotective approach. EPA has required DNT tests for imidacloprid, mepiquat, and zeta-cypermethrin, and these studies have not been conducted. EPA therefore cannot argue that ''reliable data'' justifies removing the statutory presumptive 10X FQPA safety factor.

Had EPA not removed 10X, many of these pesticide tolerances would have been acknowledged to be unsafe. Even ignoring all of the other flaws in EPA's tolerance regulations for these pesticides (addressed below), *this single decision to overturn 10X resulted in unsafe tolerances improperly being declared ''safe.''*

For imidacloprid, EPA calculated that the margin of exposure (MOE) for chronic dietary and residential exposure for children aged one to six was 302. 64 FR 39047. Relying on an FQPA safety factor of 3X instead of 10X, EPA established a ''safe'' MOE of 300, and therefore the actual MOE was just barely outside the Agency's level of concern for chronic exposure. *Id.* But if EPA had applied 10X, as it was obligated to do under the FQPA, the safe MOE would have been 1000 and the tolerance as proposed would have been found unsafe. (As it is, the actual MOE of 302 for children aged one to six is shockingly close to the EPA-declared ''safe'' MOE of 300.).

For zeta-cypermethrin, EPA calculated the following actual MOEs: MOE for combined aggregate exposure for children is 830; MOE for short-term aggregate exposure for children is 600; MOE for short-term aggregate exposure for infants is 1000; MOE for intermediate-term aggregate exposure for adult males is 640; MOE for intermediate-term aggregate exposure for adult females is 740; MOE for intermediate-term aggregate exposure for children is 300; and the MOE for intermediate-term aggregate exposure for infants is 530. 67 FR 6428 (Feb. 12, 2002). At the same time, EPA relied on an FQPA safety factor of only 1X (in other words, no FQPA safety factor at all), to establish a ''safe'' MOE of 100, and thus declared that all of these actual MOEs were safe. *Id.* Yet if EPA has properly applied the presumptive 10X FQPA safety factor, the safe MOE would have been set at 1000 instead of 100, *all of the above actual MOEs would have been acknowledged as unsafe*, and the new tolerances for zeta-cypermethrin could not have been established.

In light of the incomplete data and potential pre-natal and post-natal developmental toxicity for imidacloprid, mepiquat, bifenazate, zeta-cypermethrin, and diflubenzuron, EPA's failure to apply the 10X children's safety factor violates the FQPA and EPA's own stated policy on proper application of the 10X safety factor. See OPP, EPA, *Determination of the Appropriate FQPA Safety Factor(s) in Tolerance Assessment*, Feb. 28, 2002, at 11 (''Risk assessors . . . should presume that the default 10X safety factor applies and should only recommend a different factor, based on an individualized assessment, when reliable data show that such a different factor is safe for infants and children.''). The absence of required DNT studies for imidacloprid, mepiquat, and zeta-cypermethrin make EPA's failure to apply 10X for these pesticides especially egregious. EPA lacks reliable data to overturn the presumption of a 10X FQPA safety factor for any of the five pesticides addressed in these objections: Imidacloprid, mepiquat, bifenazate, zeta-cypermethrin, and diflubenzuron. Where there are no data or where there are gaps in data—either for particular toxic effects, for specific patterns of food consumption, or for particular routes of exposure—there cannot be the ''reliable data'' required by the FQPA to remove 10X.

B. Farm Children Are Especially Vulnerable To Pesticide Exposure, And Are Not Adequately Considered In These Tolerances

Farm children should be deemed to comprise an especially vulnerable population, and their exposure to imidacloprid, mepiquat, bifenazate, zeta-cypermethrin, and diflubenzuron must be considered in establishing tolerances where data is available. The FQPA requires that EPA consider exposure not just to consumers as a whole, but also to major identifiable subgroups of consumers. 21 U.S.C. 346a(b)(2)(D). In establishing tolerances, EPA must consider, among other relevant factors, available information concerning the dietary consumption patterns of consumers (and major identifiable subgroups of consumers); . . . available information concerning the aggregate exposure levels of consumers (and major identifiable subgroups of consumers); and available information concerning the variability of the sensitivities of major identifiable subgroups of consumers. 21 U.S.C. 346a(b)(2)(D)(iv); (vi); (vii). Farm children are a major identifiable subgroup under these statutory provisions, and their unique dietary consumption patterns, aggregate exposure levels, and sensitivities to exposure should have been assessed by EPA in establishing new tolerances for imidacloprid, mepiquat, bifenazate, zeta-cypermethrin, and diflubenzuron.

More than 320,000 children under the age of six live on farms in the United States. In addition, many hundreds of thousands of children play or attend schools on or near agricultural land, and others have family members who work on farms or handle pesticides as part of their jobs. The nation's 2.5 million farm workers have approximately one million children living in the United States. *See* NRDC et al., *Petition for a Directive that the Agency Designate Farm Children As a Major Identifiable Subgroup and Population at Special Risk to be Protected under the Food Quality Protection Act*, Oct. 22, 1998, at 1 (hereafter NRDC, *Farm Kids Petition*).

Children living in agricultural communities are heavily exposed to pesticides, whether or not they work in the fields 9–11. Farm children come in contact with pesticides through residues from their parents' clothing, dust tracked into their homes, contaminated soil in areas where they play, food eaten directly from the fields, drift from aerial spraying, contaminated well water, and breastmilk. Furthermore, farm children often accompany their parents to work in the fields, raising their pesticide exposures even higher. *See* NRDC, *Farm Kids Petition*, at 2–3. Citing data from the Department of Labor, the U.S. General Accounting Office has reported that seven percent of farmworkers with children 5 years old or younger took their children with them when they worked in the fields. *See* U.S. General Accounting Office, *Pesticides: Improvements Needed to Ensure the Safety of Farmworkers and Their Children*, (RCED–00–40), March 14, 2000, at 6 (hereafter ''GAO, *Safety of Farmworkers and Their Children*''). Children age nine or older may and do work on large farms. Farm children are likely to have the highest exposure to pesticides of any group of people in the country. Many of the children with the greatest pesticide exposures are from migrant farmworker families, who are poor and usually people of color or recent immigrants. *See* NRDC, *Farm Kids Petition*, at 2–3.

Children have unique exposure patterns and sensitivities to pesticides. Per pound of body weight, children eat, drink, and breathe more than adults. Children also engage in more frequent hand-to-mouth contact, and therefore have higher rates of oral exposure from objects, dust, or soil. *See* NRDC, *Farm Kids Petition*, at 3; GAO, *Safety of Farmworkers and Their Children*, at 17. The GAO found that crawling, sitting, and lying on contaminated surfaces may also increase exposure rates of farm children to pesticides. *See* GAO, *Safety of Farmworkers and Their Children*, at 17. Furthermore, as the GAO concluded, ''[b]ecause young children's internal organs and bodily processes are still developing and maturing, their enzymatic, metabolic, and immune systems may provide less natural protection than those of an adult.'' *Id.*

EPA's regulations establishing tolerances for imidacloprid, mepiquat, bifenazate, zeta-cypermethrin, and diflubenzuron fail to consider information concerning the sensitivities and exposures of farm children as a major identifiable subgroup. 64 FR 39041 (imidacloprid); 67 FR 3113 (Jan. 23, 2002) (mepiquat); 67 FR 4913 (Feb. 1, 2002) (bifenazate); 67 FR 6422 (Feb. 12, 2002) (zeta-cypermethrin); 67 FR 7085 (Feb. 15, 2002) (diflubenzuron). Under 21 U.S.C. 346a(b)(2)(D), EPA must consider data regarding farm children's dietary consumption patterns, aggregate exposure

levels, and sensitivities to exposure. If reliable data are lacking, EPA must require the pesticide chemical registrants to secure the necessary data and should not issue new tolerances until such data are available.

C. EPA Failed To Consider Worker Risk In Establishing These Tolerances

The FQPA requires consideration of worker risk in establishing final tolerances. A tolerance is not considered safe under the statute unless there is a reasonable certainty that no harm will result ''from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures *and all other exposures for which there is reliable information*.'' 21 U.S.C. 346a(b)(2)(A)(ii) (emphasis added). Worker exposure is clearly included in this catch-all category of ''all other exposures'' to be considered in setting a tolerance. In establishing tolerances for imidacloprid, mepiquat, bifenazate, zeta-cypermethrin, and diflubenzuron, EPA cites no provision of the statute or any other authority to support its repeated incantation that aggregate exposure does not include occupational exposure. 64 FR 39042 (imidacloprid); 67 FR 3114 (Jan. 23, 2002) (mepiquat); 67 FR 4914 (Feb. 1, 2002) (bifenazate); 67 FR 6423 (Feb. 12, 2002) (zeta-cypermethrin); 67 FR 7086 (Feb. 15, 2002) (diflubenzuron). The statute's provision stating that EPA ''shall consider, *among other relevant factors...* available information concerning the aggregate exposure from other non-occupational sources'' does not justify ignoring farmworkers' exposure in setting tolerances. 21 U.S.C. 408(b)(2)(D) (emphasis added). This provision explicitly requires EPA to consider ''relevant factors'' other than those enumerated, and is plainly illustrative rather than exhaustive. Moreover, much of farmworkers' elevated exposure comes not only from their occupational activities, but also because of the high exposures in the homes in which they live, the air they breathe, the water they drink. Clearly farmworkers are a high risk population deserving of careful consideration and protection 12–23. EPA's failure to consider worker risks in establishing these tolerances violates the FQPA's mandate that aggregate exposure assessments include *all*exposures for which there is reliable information. 21 U.S.C. 346a(b)(2)(A)(ii).

D. The Aggregate Risk Assessment Is Inadequate

The FQPA, 21 U.S.C. 346a(b)(2)(A)(ii) requires that, to establish a pesticide tolerance, there must be a reasonable certainty that no harm will result from aggregate exposure to pesticide chemical residue, including all anticipated dietary exposures and other exposures for which there are reliable information. Aggregate exposure is the total exposure to a single chemical or its residues that may occur from dietary (*i.e.*, food and drinking water), residential, and all known or plausible exposure routes (including oral, dermal and inhalation). *See id.* Therefore, in addition to food and water exposures, the aggregate assessment must take into account exposures due to air drift and migration of contaminated soil, residential exposures from registered uses, and residential ''take-home'' exposures to families of those directly exposed to the pesticides through its agricultural uses. Furthermore, the aggregate assessment must consider exposures from uses that do not conform with the label, if there is an indication that such uses occur.

EPA failed to conduct an adequate aggregate assessment in establishing tolerances for imidacloprid, mepiquat, bifenazate, zeta-cypermethrin, and diflubenzuron. First, all of the exposure data gaps outlined in Unit V.A. constitute missing information that properly should have been incorporated into EPA's aggregate exposure assessment. Also, none of the regulations establishing tolerances for these five pesticides consider exposure through air drift, migration of contaminated soil, or residential take-home exposures. The bifenazate aggregate assessment suffers from an additional defect: EPA relied on unsupported and apparently arbitrary processing factors to reduce estimates of dietary exposure to bifenazate on apples and grapes. 67 FR 4917 (Feb. 1, 2002).

For all five pesticides, EPA incorrectly concluded that the new tolerances would not result in any increased residential exposure because the tolerances themselves were not for residential uses. 64 FR 39044 (imidacloprid); 67 FR 3116 (Jan. 23, 2002) (mepiquat); 67 FR 4918 (Feb. 1, 2002) (bifenazate); 67 FR 6425 (Feb. 12, 2002) (zeta-cypermethrin); 67 FR 7087 (Feb. 15, 2002) (diflubenzuron). This ignores reliable data concerning take-home exposure resulting from agricultural uses 9, 24. NRDC's 1998 report, *Trouble on the Farm*, documents the scientific evidence supporting the potential for take-home exposures from pesticides, even when not registered for residential use. *See* NRDC, *Trouble on the Farm: Growing up with Pesticides in Agricultural Communities*, 1998. As many as a dozen different pesticide residues have been found in household dust in some homes, including agricultural insecticides and herbicides not registered for use in the home. *See* NRDC, *Farm Kids Petition* at 3.

In addition, EPA deliberately ignores known residential uses in establishing new tolerances for these pesticides. The Agency completely fails to assess and incorporate those residential uses as a source of aggregate exposure, in violation of the FQPA.

Imidacloprid has significant residential uses, including uses on flowering plants, ground covers, turf, lawns, golf courses, walkways, recreation areas, household dwellings, and cats and dogs. 64 FR 39045 (July 21, 1999). However, based on predictions of low toxicity, EPA concludes that a number of missing residential exposure assessments are not required, including both acute and chronic short-term dermal, intermediate-term dermal, long-term dermal, and inhalation. *Id.* The one residential exposure assessment that EPA does require—short-term risk assessment of oral exposure—has not yet been completed, but EPA wrongly proceeded with an aggregate risk assessment of exposure to imidacloprid anyway. *Id.*

Bifenazate is registered for use on landscape ornamentals at residential and recreational sites. 67 FR 4918 (Feb. 1, 2002). Nevertheless, EPA makes the unsupported conclusion that no residential post-application assessment is warranted, and therefore this potential source of exposure is disregarded. 67 FR 4918 (Feb. 1, 2002).

In establishing new tolerances for zeta-cypermethrin, EPA wrongly ignores indoor and outdoor residential uses of cypermethrin (which the agency states is toxicologically identical to zeta-cypermethrin for purposes of these tolerances). 67 FR 6427 (Feb. 12, 2002).

Diflubenzuron is registered for use on outdoor residential and recreational areas. 67 FR 7089 (Feb.15, 2002). But EPA wrongly chose not to evaluate exposure through these uses because diflubenzuron ''is only applied to the tree canopy.'' *Id.* The above deficiencies reveal that EPA improperly underestimated aggregate exposure to these pesticides and their residues that may occur from dietary, residential, and all other known or plausible exposure routes. The assumptions and missing data in EPA's analysis of aggregate exposure for these five pesticides systematically serve to underestimate exposure and therefore underestimate risk, contrary to the requirements of the FQPA.

E. EPA Improperly Failed To Rely On A NOEL For Dietary Risk Estimates

EPA cannot lawfully establish tolerances in the absence of a NOEL. The report of the House Committee on Commerce clearly states its intent for all safety factors to be applied to the NOEL. *See* H.R. Rep. No. 104–669, Part 2, at 43, presented to the House on July 23, 1996. By using a NOEL, the risk assessor is assured that regulatory decisions are based on a dose at which no effect is elicited. The use of a LOAEL carries no such assurances. ''Adverse'' effects are often crude toxicological endpoints, such as death, or dramatic loss of body or organ weight, and are not designed to coordinate to the vulnerable points in embryonic development. A LOAEL may represent a dose high enough to elicit significant unpleasant and harmful effects, and can not be considered as protective as a true NOEL.

For imidacloprid, mepiquat, and zeta-cypermethrin, EPA failed to regulate on the basis of a NOEL, and instead relied on a LOAEL in conducting particular assessments.

For imidacloprid, EPA relied only on a LOAEL for acute toxicity, and was unable to discern a NOAEL for the acute toxic effects of the pesticide. 64 FR 39044 (July 21, 1999). EPA also assessed only a LOAEL for chronic toxicity (a level that produced an increased number of thyroid lesions). *Id.*

To establish the new tolerances for mepiquat, EPA measured reproductive toxicity only on the basis of a LOAEL; the reproductive toxicity study did not establish a reproductive NOAEL. 65 FR 1792 (Jan. 12, 2000).

For zeta-cypermethrin, a developmental toxicity study yielded only a LOAEL. 67 FR 6426 (Feb. 12, 2002).

Lacking a NOEL for these endpoints, EPA has no scientific basis upon which to conclude that there is a fully safe level at which infants and children will not suffer developmental harm because of imidacloprid, mepiquat, or zeta-cypermethrin exposure. Therefore, EPA

cannot make a legal finding that any specific level of imidacloprid, mepiquat, or zeta-cypermethrin on food is ''safe'' for infants and children, or that there is a ''reasonable certainty of no harm'' to infants and children, at any specific level. 21 U.S.C. 346a(b)(2). As a matter of law, under 21 U.S.C. 346a(b)(2), EPA may not establish these new tolerances for imidacloprid, mepiquat, or zeta-cypermethrin.

F. EPA Failed To Ensure A Reasonable Certainty Of No Harm For All Infants And Children In Establishing These Tolerances

Under the FQPA, EPA must ensure that there is a reasonable certainty that no children will be harmed through exposure to pesticide chemical residues. 21 U.S.C. 346a(b)(2)(C). If the best evidence suggests that thousands of children will exceed the reference dose for a pesticide, EPA is barred by statute from finding a reasonable certainty of no harm to these particular infants and children, and the Agency may not issue a tolerance at that level. However, in establishing tolerances for imidacloprid and mepiquat, EPA regulates dietary residues at only the *95th percentile*. 64 FR 39044 (acute dietary exposure to imidacloprid at the 95th percentile); 65 FR 1793 (acute dietary exposure to mepiquat at the 95th percentile). This runs contrary to EPA's previous policy of using the 99.9th percentile child (which itself is inadequate to fully protect children). Regulation at the 95th percentile means that five percent of all American children under age six (*around 1.2 million children in all*) could exceed the chronic reference dose every day, based on the best information available to the agency. Both imidacloprid and mepiquat are used on common children's foods—imidacloprid on blueberries, and mepiquat on grapes. No reading of the FQPA will support any approach that allows millions of children to exceed the reference dose. Regulating dietary residues of imidacloprid and mepiquat at the 95th percentile violates the FQPA's requirement that EPA ''ensure that there is a reasonable certainty that *no harm* will result to infants and children from aggregate exposure to the pesticide chemical residue.'' 21 U.S.C. 346a(b)(2)(C)(ii)(I).

G. EPA Failed To Guarantee That Legal Food Will Be Safe Food Based On Exposure To Pesticide Chemical Residues Of Diflubenzuron At The Tolerance Level

To assess chronic dietary exposure, EPA relied on estimates of ''anticipated residues'' for diflubenzuron. 67 FR 7087–7088 (Feb. 15, 2002). In doing so, EPA failed to account for the dietary exposure of a significant number of consumers who purchase produce at farmers markets, farm stands, and ''U-Pick'' farming operations. Over 1.9 million people buy vegetables and fruits from nearly 13,000 farmers, at more than 2,000 community-based farmers markets and farm stands in the United States. *See* National Association of Farmers' Market Nutrition Programs (http://www.nafmnp.org/). These consumers include pregnant women, infants, and children, and must be protected. By ignoring this significant community of consumers, EPA vastly underestimates dietary exposure and cannot ensure that exposure to residues of diflubenzuron at the tolerance level will be safe. Reliance on 21 U.S.C. 346a(b)(2)(E) to factor in anticipated residues of diflubenzuron does not justify ignoring the known dietary exposure of potentially millions of consumers to residues of these pesticides at the tolerance level. EPA must ensure that the legal level of pesticide chemical residue—the established tolerance levels—are themselves safe. 21 U.S.C. 346a(b)(2)(A).

H. EPA Violated the FQPA by Relying on Percent of Crop Treated in Assessing Dietary Exposure to Imidacloprid

In establishing time-limited tolerances for imidacloprid on blueberries in New Jersey and Michigan, EPA relied on estimates of the percent of crop treated to measure chronic dietary risk. 64 FR 39044–39045 (July 21, 1999). The FQPA, however, authorizes EPA's use of data on the percent of crop treated to assess chronic dietary risk only if EPA can make certain findings. In particular, EPA must find that: 1. ''The data are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide chemical residue; 2. the exposure estimate does not understate exposure for any significant subpopulation group; and 3. if data are available on pesticide use and consumption of food in a particular area, the population in such area is not dietarily exposed to residues above those estimated.'' 21 U.S.C. 346a(b)(2)(F)(i); (ii); (iii).

These statutory criteria are not satisfied in this instance. EPA's new time-limited tolerance for imidacloprid on blueberries is geographically restricted to two States, yet EPA relies on national percent crop treated data. 67 FR 2580 (Jan. 18, 2002); 64 FR 39044–39045 (July 21, 1999). National data cannot provide a valid basis for measuring the percent of the blueberry crop treated with imidacloprid in New Jersey and Michigan, given that the new tolerance restricts the use of imidacloprid to those two States. Furthermore, relying on national data will plainly understate exposure for significant subpopulation groups—blueberry consumers in New Jersey and Michigan, who will be exposed to higher levels of imidacloprid residues than consumers in the rest of the nation. EPA therefore failed to meet the requirements of the FQPA to justify using percent of crop treated data to assess chronic risk. 21 U.S.C. 408(b)(2)(F).

*III. Relief Requested*

In light of the above outlined statutory violations, NRDC respectfully requests that EPA refrain from establishing the new tolerances for imidacloprid, mepiquat, bifenazate, zeta-cypermethrin, and diflubenzuron until the pesticide tolerances have been assessed and determined to be safe consistent with the requirements of the FQPA.

*IV. Supporting Material*

NRDC incorporates by reference the following attachments in support of these objections:

*Attachment A*: NRDC, et al., *Petition for a Directive that the Agency Consistently Fulfill Its Duty to Retain the Child-Protective Tenfold Safety Factor Mandated by the Food Quality Protection Act*, April 23, 1998.

*Attachment B*: NRDC, et al., *Petition for a Directive that the Agency Designate Farm Children As a Major Identifiable Subgroup and Population at Special Risk to be Protected under the Food Quality Protection Act*, Oct. 22, 1998.

*Attachment C*: NRDC, *Putting Children First: Making Pesticide Levels in Food Safer for Infants and Children*, April 1998.

*Attachment D*: NRDC, *Trouble on the Farm: Growing up with Pesticides in Agricultural Communities*, 1998.

*Attachment E*: U.S. General Accounting Office, *Pesticides: Improvements Needed to Ensure the Safety of Farmworkers and Their Children*, (RCED–00–40), March 14, 2000.

NRDC reserves the right to submit additional supplemental information in further support of these objections.

*V. Request for a Fee Waiver*

Pursuant to 40 CFR 180.33(m), NRDC hereby requests a waiver of all tolerance objection fees imposed by 40 CFR 180.33(i). A waiver of fees will promote the public interest. NRDC is a national non-profit, tax-exempt public policy research and environmental organization. NRDC makes information available to thousands of citizens by means of its numerous and varied publications, educational programs, seminars, and public-interest litigation. These objections to the tolerances established for imidacloprid, mepiquat, bifenazate, zeta-cypermethrin, and diflubenzuron are intended to benefit primarily the public as opposed to NRDC. As outlined above, these objections challenge EPA regulations that fail to properly implement the FQPA and, as a result, pose threats to the public health, especially children's health. Furthermore, NRDC has no financial interest in the sale, manufacture, or use of imidacloprid, mepiquat, bifenazate, zeta-cypermethrin, or diflubenzuron. Requiring NRDC to pay the fees would work an unreasonable hardship.

Respectfully submitted,

Erik D. Olson
Jon P. Devine, Jr.
Aaron Colangelo
Natural Resources Defense Council
1200 New York Avenue, NW., Suite 400,
Washington, DC 20005
Phone: (202) 289–6868
Fax: (202) 289–1060

Dated: March 19, 2002.

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**List of Subjects**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Tolerances.

**Authority:** 21 U.S.C. 346(a).

Dated: June 7, 2002.

**Marcia E. Mulkey,**

*Director, Office of Pesticide Programs.*

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**BILLING CODE 6560–50–S**

## DEPARTMENT OF TRANSPORTATION

## Transportation Security Administration

## 49 CFR Parts 1540 and 1544

**[Docket No. TSA–2002–12394; Amendment Nos. 1540–2, 1544–2]**

**RIN 2110–AA05**

## Private Charter Security Rules

**AGENCY:** Transportation Security Administration (TSA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This rule amends the rules applying to private charter passenger aircraft to increase the level of security required in private charter operations. Aircraft operators using aircraft with a maximum certificated takeoff weight of 95,000 pounds or more, except a government charter, will now be required to ensure that individuals and their accessible property are screened before boarding. Given the current security risks, the potential for damage these larger aircraft can cause, and the need to protect areas that are designated as sterile, TSA believes it is now appropriate to require these operators to ensure that individuals and their accessible property are screened. Individuals are required to submit to screening prior to boarding a private charter aircraft under this rule.

**DATES:** This rule is effective August 19, 2002. Submit comments by July 19, 2002.

**ADDRESSES:** You may submit comments to this final rule to the DOT public docket through the Internet at *http://dms.dot.gov/*, docket number TSA–2002–12394. If you do not have access to the Internet, you may submit your comments by United States mail, to the Docket Management System, U.S. Department of Transportation, Room PL401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify your comments with Docket Number TSA–2002–12394, entitled ''Amendment to Aircraft Operator Security Rules,'' and provide three copies. You may also obtain a copy of the rule through the Internet, or request a copy through the mail at the addresses above.

You may also review the public docket in person in the Docket Office

between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office is on the plaza level of the Department of Transportation.

**FOR FURTHER INFORMATION CONTACT:** Lon Siro, Aviation Security Specialist, Transportation Security Administration, ACP–100, Department of Transportation, Washington, DC 20591, *lon.siro@faa.gov*, 202–267–3413.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

This amendment is being adopted without prior notice and prior public comment. The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1134; Feb. 26, 1979), however, provides that to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments. Comments must include the regulatory docket or amendment number and must be submitted in duplicate to the address above. All comments received, as well as a report summarizing each substantive public contact with TSA personnel on this rulemaking, will be filed in the public docket. The docket is available for public inspection before and after the comment closing date.

*See* **ADDRESSES** above for information on how to submit comments.

**Availability of Final Rule**

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*).

(2) On the search page type in the last digits of the docket number shown at the beginning of this notice. Click on ''search.''

(3) On the next page, which contains the docket summary information for the docket you selected, click on the final rule.

You can also get an electronic copy using the Internet through the Government Printing Office's web page at *http://www.access.gpo.gov/su_docs/aces/aces140html.*

In addition, copies are available by writing or calling the Transportation Security Administration's Air Carrier Division, 800 Independence Avenue, SW., Washington, DC 20591; telephone 202–267–3413.

**Small Entity Inquiries**

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires TSA to comply with small entity requests for information advice about compliance with statutes and regulations within TSA's jurisdiction. Any small entity that has a question regarding this document may contact the person listed in **FOR FURTHER INFORMATION CONTACT** for information. You can get further information regarding SBREFA on the Small Business Administration's web page at *http://www.sba.gov/advo/laws/law_lib.html.*

**Abbreviations and Terms Used In This Document**

ATSA—Aviation and Transportation Security Act.

SIDA—Security identification display areas.

TSA—Transportation Security Administration.

**Background**

The September 11, 2001, terrorist attacks involving four U.S. commercial aircraft that resulted in the tragic loss of life at the World Trade Center, the Pentagon, and southwest Pennsylvania, demonstrate the need for increased air transportation security measures. The terrorists responsible for the attacks retain the capability and willingness to conduct airline bombings, hijackings, and suicide attacks against American targets. The attempted bombing of a U.S. carrier on a flight from Paris on December 22, 2001, confirms the ongoing threat to Americans and American assets.

The events of September 11 led Congress to enact the Aviation and Transportation Security Act (ATSA), Public Law 107–71, November 19, 2001. ATSA required TSA to assume the aviation security responsibilities that the Federal Aviation Administration (FAA) maintained prior to September 11. On February 22, 2002, TSA published a final rule transferring the bulk of FAA's aviation security regulations to TSA and adding new standards required by ATSA. 67 FR 8340. Regulations concerning aircraft operator security, formally codified at 14 CFR part 108, are now codified at 49 CFR part 1544. Also on February 22, 2002, TSA published a rule that, in part, amended the requirement for private charter operators. It requires private charters that enplane from or deplane into a sterile area to conduct fingerprint-based criminal history record checks on their flightcrew members. 67 FR 8205. (The term 'flightcrew member' means a pilot, flight engineer, or flight navigator assigned to duty in an aircraft during flight time. *See*, 49 CFR 1540.5)

Subpart B of part 1544 sets forth the requirements operators must meet concerning the form, content and implementation of a security program. Operator security programs address screening individuals and property, qualifications and training for screeners, aircraft security, and a variety of other significant security-related measures. Section 1544.101 establishes requirements for the adoption and implementation of a security plan, and provides for different plan components depending on the type of aviation operation, volume of passengers, departure and arrival location, and type of aircraft.

Public charter is defined as any charter that is not a private charter. There are two types of private charters. (1) Private charters include any flight in which the charterer engages the total passenger capacity of the aircraft for carrying passengers, the passengers are invited by the charterer, the cost of the flight is borne entirely by the charterer, and the flight is not advertised to the public in any way, to solicit passengers. (2) Private charters include any flight for which the total passenger capacity of the aircraft is used for the purpose of civilian or military air movement, conducted under contract with the U.S. government or a foreign government.

Since 1978, operators of public charters have been subject to the same security requirements as operators of aircraft in scheduled service. Private charters have operated under different requirements, however. With respect to private charters, the passengers choose to travel together. They may be related to one another in some way, such as being employed by the same company or on the same sports team, and so the risk that one passenger would endanger the others appeared to be low. However, in the current threat environment we must reevaluate whether such relationships among the passengers can be relied on to provide the level of security needed. As was plainly illustrated in the September 11 incidents, terrorists not only have the ability to blend into their environment and interact with others easily, they persistently seek out vulnerabilities in the system, and will travel in groups in order to accomplish their goals more efficiently. Moreover, in the wake of the September 11 terrorist acts, air travel was prohibited initially and resumed incrementally over time. As a result, flights to some locations became more difficult to find on a regular or frequent basis. More travelers began using the

charter industry to reach their destinations.

Therefore, TSA has determined that it is necessary to take additional measures to ensure that the passengers on the larger private charter aircraft do not have weapons, explosives, or incendiaries that would enable them to take over the aircraft and use it to do harm. The aircraft subject to this rule—those with a maximum certificated takeoff weight of 95,000 or more—are a size, and have a quantity of fuel, that could enable them to do great damage to targets on the ground. TSA believes the private charter operators should ensure that individuals and their accessible property are screened to reduce the risk that any individual could have a weapon, explosive, or incendiary device that would enable them to commandeer the aircraft and use it to destroy a target on the ground.

Many of the aircraft subject to this rule are used in scheduled passenger service one day and as a private charter the next. While in scheduled passenger service, the operator and crew conduct business in accordance with a full security program that requires screening individuals and their accessible property. TSA believes it is necessary to require these operators to ensure that all individuals on board and their accessible property are screened, regardless of whether they are in private charter, public charter, or scheduled service. Therefore, the amendment adds language to § 1544.101(f) to require operators of aircraft with a maximum certificated takeoff weight of 95,000 pounds or more to ensure that the individuals on board and their accessible property are screened prior to boarding.

This amendment does not apply to government charters because they can and do carry out procedures on a regular basis to address the security concerns at issue. The U.S. Department of Defense (DoD) and federal agencies use private charter operations to transport persons and property in furtherance of their government missions. The government agencies are responsible for ensuring the security of their personnel and the public on a daily basis, and have developed security measures unique to their needs. TSA sees no reason to apply the screening regime developed for commercial and civilian charter operations to the government. However, under the current rule, government charters must screen passengers when the charter deplanes or enplanes in sterile areas. This will minimize the risk that any weapon or other prohibited item the government personnel may be carrying could inadvertently or purposefully be used to taint the sterile area.

Paragraph (f) establishes the required security program components for private charter operations. Pursuant to the existing language in § 1544.101(f), private charter operations that enplane or deplane into a sterile area must establish a program that includes acceptance and screening of individuals and accessible property (§§ 1544.201, 1544.207), use of metal detection devices (§ 1544.209), use of X-ray systems (§ 1544.211), security coordinators (§ 1544.215), law enforcement personnel (§ 1544.217), accessible weapons (§ 1544.219), criminal history records checks (§§ 1544.229, 1544.230), training for security coordinators and crewmembers (§ 1544.233), training for individuals with security-related duties (§ 1544.235), bomb or air piracy threats (§ 1544.303), security directives (§ 1544.305), and all of subpart E concerning screener qualifications when the aircraft operator performs screening. This rule amends § 1544.101(f) by now requiring private charter operators (other than government charters) using aircraft with a maximum certificated takeoff weight of 95,000 or more, regardless of whether they enplane or deplane in a sterile area, to comply with all of these sections.

This rule also adds to paragraph (f) the requirement that private charter operators that are subject to part 1544 must comply with § 1544.225, regarding the security of aircraft and facilities. For screening of individuals and accessible property to be effective, it is necessary for operators to ensure that the aircraft is free of weapons, explosives, and incendiaries before the individuals board. Private charter operators must have security measures in place to ensure the integrity of the aircraft.

This rule also requires individuals on private charter flights to submit to screening. For most screening of passengers under part 1544, the passenger is screened before entering a sterile area. The gate at which the passenger boards the aircraft is within the sterile area. Part 1540, which governs general rules for individuals and other persons, also establishes rules for screening. Subpart B contains rules that apply to many persons, including airport operators, airport tenants, aircraft operators, foreign air carriers, indirect carriers, employees of these entities, passengers, individuals at airports, and other individuals.

In order to make clear which individuals in an airport must comply with screening procedures, § 1540.107 requires all individuals who enter sterile areas to submit to screening. For private charter screening under this amendment, however, there may be no sterile area. The passengers may be screened immediately before they board the aircraft. Accordingly, we are amending § 1540.107 to make clear that individuals on charter must submit to screening before boarding an aircraft. This amendment will also apply to other screening conducted just before individuals board, such as gate screening within sterile areas.

Similar changes are made to § 1540.111(a)(1), which provides that an individual may not have a weapon, explosive, or incendiary, on or about the individual's person or accessible property when screening has begun.

**Good Cause for Immediate Adoption**

This action is necessary to prevent a possible imminent hazard to aircraft, persons, and property within the United States. The events of September 11 illustrate the fact that terrorists have the will and ability to use large aircraft to destroy landmarks and kill thousands of people. The threat of more violence is apparent. Because the use of private charters has increased since September 11, the opportunity to commit a terrorist act with a large aircraft has increased and more people and ground targets may be at risk. The time needed to complete notice and comment procedures prior to issuing an enforceable standard lengthens the time this situation remains in place and expands the circle of risk. TSA has asked for comment with publication of this rule, and will consider all comments received shortly thereafter. If changes to the rule are necessary to address aviation security more effectively, or in a less burdensome but equally effective manner, TSA will not hesitate to make such changes. The Under Secretary of Transportation for Security believes that the circumstances described herein warrant immediate action, and finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest.

**Paperwork Reduction Act**

This rule contains information collection activities subject to the Paperwork Reduction Act (44 U.S.C. 3507(d)). In accordance with the Paperwork Reduction Act, the paperwork burden associated with the rule will be submitted to the Office of Management and Budget (OMB) for review. As protection provided by the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a

collection of information unless it displays a currently valid OMB control number. The OMB control number for this information collection will be published in the **Federal Register** after it has been approved by the Office of Management and Budget.

*Need:* This rule requires operators using aircraft in private charter operations with a maximum certificated takeoff weight of 95,000 pounds or more to ensure that individuals and their accessible property are screened prior to boarding.

*Description of Respondents:* All new and existing operators using aircraft in private charter operations with a maximum certificated takeoff weight of 95,000 pounds or more.

*Burden:* TSA does not currently have concise data on which aircraft operators have aircraft in private charter operations with a certificated takeoff weight of 95,000 pounds or more. TSA estimates that there are approximately 25 operators currently operating under 14 CFR part 121 (Domestic, Flag, and Supplemental Operations) that currently have no program in place and so will have a new paperwork burden under this rule. In addition, TSA estimates that there are approximately 45 operators operating under 14 CFR part 121 with some portion of a security program with existing paperwork procedures in place now. Also, there are airlines using aircraft with a certificated takeoff weight of 95,000 pounds or more in charter service and in traditional commercial passenger service. These operators must currently do screening for commercial service, but will have an additional paperwork burden by now completing those screening activities for private charters. It is very difficult for TSA to determine what this new paperwork burden will be for these operators. Accordingly, TSA will calculate the paperwork burden using estimates assuming that 70 aircraft operators will be subject to this rule. Thus, these assumptions will overestimate the overall burden. In addition, TSA assumes no change in the number of aircraft operators over the next 10 years. Without this simplifying assumption, it would be impossible to estimate the total effects of these changes over the ten-year period.

Each air carrier subject to this rule will need to establish a program that provides for: screening individuals and accessible property; training all employees with security-related duties; training all security coordinators and crewmembers; acknowledging receipt of, and distributing Security Directives and Information Circulars; and preparing, maintaining, and accommodating modifications to a security program. The total ten-year paperwork burden is approximately 6,820 hours at a cost of $165,900. The annual burden totals approximately 560 hours at a cost of $11,200.

TSA anticipates that the regulated entities will have to purchase no additional equipment.

**Economic Analyses**

This rulemaking has been reviewed by the Office of Management and Budget. It is significant within the meaning of the Executive Order and DOT's policies and procedures. No regulatory analysis or evaluation accompanies this rule. TSA has not assessed whether this rule will have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act of 1980, as amended. When a rulemaking action does not include publication of a notice of proposed rulemaking, as is the case in this proceeding, economic assessments are not required for the final rule. TSA recognizes that this rule may impose costs on some affected operators. These costs will stem from developing and implementing screening procedures and other security measures. However, given the current security threat, TSA believes it is necessary to require these enhanced security measures. TSA will assess the costs and benefits of the rule as soon as possible and include the analysis in the docket of this matter.

**Executive Order 13132, Federalism**

TSA has examined this rule under the principles and criteria of Executive Order 13132, Federalism. TSA has determined that this action will not have a substantial direct effect on the States, or the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, this final rule does not have federalism implications.

**Trade Impact Assessment**

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety and security, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The TSA has assessed the potential effect of this amendment and has determined that it will impose the same costs on domestic and international entities and thus has a neutral trade impact.

**Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995 is intended to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement that assesses the effect of any Federal mandate found in a rulemaking action that may result in an expenditure of $100 million or more (adjusted annually for inflation) in any one year by State, local and tribal governments, in the aggregate, or by the private sector. Such a mandate is identified as a ''significant regulatory action.''

The Act does not apply to a regulatory action in which no notice of proposed rulemaking is published, as is the case in this proceeding. Accordingly, TSA has not prepared a statement under the Act.

**Environmental Analysis**

TSA has reviewed this action for purposes of the National Environmental Review Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) and has determined that this action will not have a significant effect on the human environment.

**Energy Impact**

The energy impact of this rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA), Public Law 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that this rule is not a major regulatory action under the provisions of the EPCA.

**List of Subjects**

*49 CFR Part 1540*

Air carriers, Aircraft, Airports, Law enforcement officers, Reporting and recordkeeping requirements, Security measures.

*49 CFR Part 1544*

Air carriers, Aircraft, Aviation safety, Freight forwarders, Reporting and recordkeeping requirements, Security measures.

**The Amendments**

For the reasons stated in the preamble, the Transportation Security Administration amends 49 CFR chapter XII as follows:

## PART 1540—CIVIL AVIATION SECURITY: GENERAL RULES

1. The authority citation for part 1540 continues to read as follows:

**Authority:** 49 U.S.C 114, 5102, 40119, 44901–44907, 44913–44914, 44916–44918, 44935–44936, 44942, 46105.

2. Section 1540.107 is revised to read as follows:

### § 1540.107 Submission to screening and inspection.

No individual may enter a sterile area or board an aircraft without submitting to the screening and inspection of his or her person and accessible property in accordance with the procedures being applied to control access to that area or aircraft under this subchapter.

3. In § 1540.111, paragraph (a) introductory text is republished and paragraph (a)(1) is revised to read as follows:

### § 1540.111 Carriage of weapons, explosives, and incendiaries by individuals.

(a) *On an individual's person or accessible property—prohibitions.* Except as provided in paragraph (b) of this section, an individual may not have a weapon, explosive, or incendiary, on or about the individual's person or accessible property—

(1) When performance has begun of the inspection of the individual's person or accessible property before entering a sterile area, or before boarding an aircraft for which screening is conducted under § 1544.201 or § 1546.201 of this chapter;

* * * * *

## PART 1544—AIRCRAFT OPERATOR SECURITY: AIR CARRIERS AND COMMERCIAL OPERATORS

4. The authority citation for part 1544 continues to read as follows:

**Authority:** 49 U.S.C 114, 5103, 40119, 44901–44905, 44907, 44913–44914, 44916–44918, 44932, 44935–44936, 44942, 46105.

5. Section 1544.101(f) is revised to read as follows:

### § 1544.101 Adoption and implementation.

* * * * *

(f) *Private charter program.* (1) In addition to paragraph (d) of this section, if applicable, each aircraft operator must carry out §§ 1544.201, 1544.207, 1544.209, 1544.211, 1544.215, 1544.217, 1544.219, 1544.225, 1544.229, 1544.230, 1544.233, 1544.235, 1544.303, and 1544.305, and subpart E of this part and must adopt and carry out a security program that meets the applicable requirements of § 1544.103 for each private charter passenger operation in which—

(i) The passengers are enplaned from or deplaned into a sterile area; or

(ii) The aircraft has a maximum certificated takeoff weight of 95,000 pounds or more, and is not a government charter under paragraph (2) of the definition of private charter in § 1540.5 of this chapter.

(2) The Under Secretary may authorize alternate procedures under paragraph (f)(1) of this section as appropriate.

* * * * *

Issued in Washington, DC, on June 12, 2002.

**John W. Magaw,**

*Under Secretary.*

[FR Doc. 02–15490 Filed 6–18–02; 8:45 am]

BILLING CODE 4910–62–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 011218304–1304–01; I.D. 061402B]**

## Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure.

**SUMMARY:** NMFS is closing directed fishing for yellowfin sole by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the third seasonal apportionment of the 2002 Pacific halibut bycatch allowance specified for the yellowfin sole fishery category.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), June 15, 2002, until 1200 hrs, A.l.t., June 30, 2002.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The third seasonal apportionment of the 2002 halibut bycatch allowance specified for the BSAI trawl yellowfin sole fishery category, which is defined at § 679.21(e)(3)(iv)(B)(1), is 49 metric tons (67 FR 956, January 8, 2002).

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the third seasonal apportionment of the 2002 halibut bycatch allowance specified for the yellowfin sole fishery in the BSAI has been caught. Consequently, the Regional Administrator is closing directed fishing for yellowfin sole by vessels using trawl gear in the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, finds that the need to immediately implement this action to avoid exceeding the third seasonal apportionment of the halibut bycatch allowance for yellowfin sole fishery category in the BSAI constitutes good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B). These procedures are unnecessary and contrary to the public interest because the need to implement these measures in a timely fashion to avoid exceeding the third seasonal apportionment of the halibut bycatch allowance for yellowfin sole fishery category in the BSAI constitutes good cause to find that the effective date of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d)(3), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.21 and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: June 14, 2002.

**John H. Dunnigan,**

*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 02–15463 Filed 6–14–02; 3:18 pm]

BILLING CODE 3510–22–S

# Proposed Rules

Federal Register
Vol. 67, No. 118
Wednesday, June 19, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2001–NM–30–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 777 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Boeing Model 777 series airplanes. This proposal would require repetitive inspections for cracking of the floor beam structure located at body station 246; and repair, if necessary. This action is necessary to find and fix such cracking, which could extend and sever the floor beam, resulting in rapid depressurization of the airplane and consequent collapse of the floor structure. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by August 5, 2002.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–30–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–30–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Suzanne Masterson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2772; fax (425) 227–1181.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–30–AD.'' The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–30–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

### Discussion

The FAA has received numerous reports of fatigue cracking of the floor beam structure located at body station (BS) 246 on several Boeing Model 777 series airplanes. Investigation revealed that the fatigue is caused by high bending stresses in the forward and aft directions of the BS 246 floor beam during flight. The high stress is due to the temperature difference between the fuselage skin and the floor structure, which results in contraction of the fuselage skin and subsequent cracking of the floor structure. Additionally, cracked stiffeners and mid-chord cracking of the left and/or right body line (BL) 38.5 were found. Several web cracks were also found at left and right BL 32.5. Such cracking could extend and sever the floor beam, resulting in rapid depressurization of the airplane and consequent collapse of the floor structure.

### Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 777–53–0031, dated October 26, 2000, which describes procedures for a detailed inspection for cracking of the floor beam structure located at BS 246. The inspection includes the floor beam clips, stiffeners, webs, and chords. The service bulletin also describes procedures for a low frequency eddy current (LFEC) inspection for cracking of the upper flange of the mid-chord at left and right BL 38.5. As an alternative to the LFEC inspection, the service bulletin allows for a detailed inspection of those areas. The alternative inspection necessitates removal of certain equipment and floor panels installed on the aft side of the BS 246 floor beam for access. If cracking is found, the service bulletin describes procedures for repair, as specified in the Boeing Model 777 Structural Repair

Manual. The service bulletin also specifies obtaining repair data from Boeing for certain cracking. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

**Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

**Difference Between This Proposed AD and the Service Bulletin**

Although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repairs/inspection procedures, this proposed AD would require such repairs/inspection procedures to be accomplished per a method approved by the FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle Aircraft Certification Office, to make such findings.

**Interim Action**

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification to address the unsafe condition that will reduce or eliminate the need for the requirement imposed by this proposed AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

**Cost Impact**

There are approximately 184 airplanes of the affected design in the worldwide fleet. The FAA estimates that 81 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspections proposed by this AD on U.S. operators is estimated to be $4,860, or $60 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

**Regulatory Impact**

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

**Boeing:** Docket 2001–NM–30–AD.

*Applicability:* All Model 777 series airplanes, certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To find and fix cracking of the floor beam structure located at body station (BS) 246, which could extend and sever the floor beam, resulting in rapid depressurization of the airplane and consequent collapse of the floor structure, accomplish the following:

**Repetitive Inspections**

(a) Within 2,500 flight cycles or 5,000 flight hours after the effective date of this AD, whichever is first: Do the inspections for cracking of the floor beam structure located at BS 246 as specified in paragraphs (a)(1) and (a)(2) of this AD, per Boeing Service Bulletin 777–53–0031, dated October 26, 2000. Repeat the inspections every 2,500 flight cycles or 5,000 flight hours, whichever is first.

(1) Do a detailed inspection for cracking of the floor beam structure (including floor beam clips, stiffeners, webs, and chords) located at BS 246.

(2) Do a low frequency eddy current (LFEC) inspection for cracking of the upper flange of the mid-chord at left and right body lines 38.5: As an alternative to the LFEC inspection a detailed inspection of this area may be done, provided that removal of certain equipment and floor panels installed on the aft side of the BS 246 floor beam is done to obtain access.

**Note 2:** For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

**Repair**

(b) If any crack is found during any inspection per paragraph (a) of this AD: Before further flight, repair per Boeing Service Bulletin 777–53–0031, dated October 26, 2000; except where the service bulletin specifies to contact Boeing for disposition of certain repairs, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved as required by this paragraph,

the approval must specifically reference this AD.

**Note 3:** There is no terminating action currently available for the repetitive inspections required by this AD.

**Alternative Methods of Compliance**

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

**Note 4:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

**Special Flight Permit**

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 12, 2002.

**Ali Bahrami,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 02–15368 Filed 6–18–02; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 312

**[Docket No. 00N–1663]**

**RIN 0910–AA61**

## Investigational New Drugs: Export Requirements for Unapproved New Drug Products

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA) is proposing to amend its regulations on the exportation of investigational new drugs, including biological products. The proposed rule would provide four different mechanisms for exporting an investigational new drug product. These provisions would implement changes in FDA's export authority resulting from the FDA Export Reform and Enhancement Act of 1996, and they would also simplify the existing requirements for exports of investigational new drugs.

**DATES:** Submit written or electronic comments by September 17, 2002. Submit written comments on the information collection requirements by July 19, 2002.

**ADDRESSES:** Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments.* Submit written comments on the information collection requirements to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20502, Attn: Stuart Shapiro.

**FOR FURTHER INFORMATION CONTACT:** Philip L. Chao, Office of Policy, Planning, and Legislation (HF–23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3380.

**SUPPLEMENTARY INFORMATION:**

### I. Background

Current FDA regulations at § 312.110 (21 CFR 312.110) require any person who intends to export an unapproved new drug product for use in a clinical investigation either to have an investigational new drug application (IND) or to submit a written request to FDA. The written request must provide sufficient information about the drug to satisfy FDA that the drug is appropriate for investigational use in humans, that the drug will be used for investigational purposes only, and that the drug may be legally used by the consignee in the importing country for the proposed investigational use (see § 312.110(b)(2)(i)). The request must also specify the quantity of the drug to be shipped and the frequency of expected shipments (§ 312.110(b)(2)(i)). If FDA authorizes exportation of the drug, it notifies the government of the importing country (§ 312.110(b)(2)(i)). Similar procedures exist for export requests made by foreign governments (see § 312.110(b)(2)(ii)). Section 312.110(b)(3) states that the requirements in paragraph (b) apply only where the drug is to be used for the purpose of a clinical investigation. Section 312.110(b)(4) states that the requirements in paragraph (b) do not apply to the exports of new drugs approved or authorized for export under section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) or section 351(h)(1)(A) of the Public Health Service Act.

The program for exporting investigational new drugs is commonly known as the ''312 program'' because the regulation pertaining to the program is located in part 312 (21 CFR part 312). Between fiscal years 1994 and 1997, FDA received nearly 1,800 export requests under the 312 program. Very few requests (less than 1 percent) presented any safety, quality, or other public health concerns.

In 1996, the President signed into law amendments to the act that changed the export requirements for certain drugs, biologics, and devices that may not be marketed or sold in the United States. These amendments, known as the FDA Export Reform and Enhancement Act of 1996 (Public Law 104–134, amended by Public Law 104–180), created, among other things, two new provisions that affect the exportation of investigational drug products. One provision, now section 802(b)(1)(A) of the act, authorizes exportation of an unapproved new drug to any country if that drug has valid marketing authorization by the appropriate authority in Australia, Canada, Israel, Japan, New Zealand, Switzerland, South Africa, the European Union (EU), or a country in the European Economic Area (EEA) and certain other requirements are met. These countries are listed in section 802(b)(1)(A)(i) and (b)(1)(A)(ii) of the act and are sometimes referred to as the ''listed countries.'' Currently, the EU countries are Austria, Belgium, Denmark, Germany, Greece, Finland, France, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom. The EEA countries are the EU countries, and Iceland, Liechtenstein, and Norway. The list of countries in section 802(b)(1)(A)(i) of the act will expand automatically if any country accedes to the EU or becomes a member of the EEA. Exports under section 802(b)(1)(A) of the act can encompass exportation of an unapproved new drug product for investigational use in a foreign country if the exported drug product has marketing authorization in any listed country and the relevant statutory requirements are met. Exports under section 802(b)(1)(A) of the act do not require prior FDA authorization.

The second provision, now section 802(c) of the act, permits exportation of unapproved new drugs (including biological products) intended for investigational use to any listed country in accordance with the laws of that country. Exports of drugs to the listed countries under section 802(c) of the act do not require prior FDA authorization and are exempt from regulation under section 505(i) of the act (21 U.S.C. 355(i)).

All drug products exported under section 802 of the act are, however, subject to certain general requirements. Section 802(f) of the act prohibits export if the unapproved new drug: (1) Is not manufactured, processed, packaged, and held in substantial conformity with current good manufacturing practice requirements; (2) is adulterated under certain provisions of section 501 of the act (21 U.S.C. 351); (3) does not comply with section 801(e)(1) of the act (21 U.S.C. 381(e)(1)), which requires that the exported product be intended for export, meet the foreign purchaser's specifications, not be in conflict with the laws in the importing country, be labeled on the outside of the shipping package that the products are intended for export, and not be sold or offered for sale in the United States; (4) is the subject of a determination by FDA that the probability of reimportation of the exported drug would present an imminent hazard to the public health and safety of the United States; (5) presents an imminent hazard to the public health of the foreign country; (6) fails to comply with labeling requirements in the country receiving the exported drug; or (7) is not promoted in accordance with labeling requirements in the importing country and, where applicable, in the listed country in which the drug has valid marketing authorization. Section 802(g) of the act also imposes certain recordkeeping and notification obligations on drugs exported under section 802 of the act; these recordkeeping and notification obligations were the subject of a final rule that appeared in the **Federal Register** of December 19, 2001 (66 FR 65429).

The new export provisions in section 802 of the act have significantly reduced the number of requests under the 312 program from an annual average of 570 requests to 100 requests. This proposed rule would conform the present regulation to the provisions of, and would be consistent with, the FDA Export Reform and Enhancement Act of 1996.

## II. Description of the Proposed Rule

The proposed rule would amend § 312.110 to provide four mechanisms for exporting investigational new drugs, eliminate unnecessary language in the current regulation, and streamline the export requirements for the ''312 program.'' The proposed rule would not contain any new recordkeeping requirements because such records would already be required under § 312.57 or the final export notification and recordkeeping rule that appeared in the **Federal Register** of December 19, 2001 (66 FR 65429).

Proposed § 312.110(b)(1) would represent the first mechanism for exporting an investigational new drug and would apply if the foreign clinical investigation is to be done under an IND. Exports under proposed § 312.110(b)(1) could be made to any foreign country. Proposed § 312.110(b)(1) would provide that an investigational new drug may be exported from the United States if an IND is in effect for the drug under § 312.40, the drug complies with the laws of the country to which it is being exported, and each person who receives the drug is an investigator in a study submitted to and allowed to proceed under the IND. This is similar to current § 312.110(b) although it would expressly, rather than implicitly, require the exported drug to comply with the laws of the foreign country.

Drugs that are the subject of an IND may be exported to any country in the world if the export is for the purpose of conducting an investigation in the importing foreign country. The agency reiterates that the requirements in proposed § 312.110(b)(1) would apply only if the foreign clinical investigation is to be done under an IND.

Proposed § 312.110(b)(2) would represent the second mechanism for investigational new drug exports and would implement section 802(b)(1) of the act with respect to exports of unapproved new drugs for investigational use. Under the proposal, if a drug product that is not approved for use in the United States has valid marketing authorization in Australia, Canada, Israel, Japan, New Zealand, Switzerland, South Africa, or in any country in the EU or the EEA, the drug may be exported for any use, including investigational use, to any country, provided that the export complies with all applicable requirements pertaining to exports. Prior FDA approval to export the drug would not be required. The proposal also would not require the drug to be the subject of an IND, but would not preclude the exporter from obtaining an IND if it chose to submit an IND to the agency. The exporter and the exported products, however, would have to comply with the foreign country's laws and with requirements in section 802(f) and (g) of the act. Recordkeeping requirements are the subject of § 1.101, which was published in the **Federal Register** of December 19, 2001.

Proposed § 312.110(b)(3), the third mechanism for investigational new drug exports, would implement section 802(c) of the act with respect to exports of unapproved new drugs for investigational use. In brief, if an unapproved drug is to be exported for investigational use to any listed country in accordance with the laws of that country, then no prior FDA authorization would be required. Export of a drug for investigational use under proposed § 312.110(b)(3) would have to comply with the foreign country's laws and the applicable provisions in section 802(c), (f), and (g) of the act. Recordkeeping requirements, as stated earlier, were the subject of § 1.101 which was published in the **Federal Register** of December 19, 2001.

FDA anticipates that most investigational new drugs would be exported under proposed § 312.110(b)(3), because the agency's experience indicates that most investigational new drugs are exported to the listed countries.

FDA interprets section 802(c) of the act, and proposed § 312.110(b)(3), to permit exportation of investigational new drugs to the listed countries, but not to permit the transshipment of investigational new drugs to nonlisted countries. (''Transshipment'' refers to the practice of shipping a product to a country from which it will later be shipped to another country.) The agency is aware that some firms have interpreted section 802(c) of the act as permitting transshipment to unlisted countries; section 802(c) of the act is silent with respect to transshipment, however, and a more reasonable interpretation is that the provision does not allow transshipments. Interpreting section 802(c) of the act to allow transshipment would be inconsistent with FDA's traditional practice under § 312.110; would presume, in the absence of any supporting language in the statute or its legislative history, that the listed countries may serve as mere transfer points or conduits for investigational new drugs and devices destined for unlisted countries; and would make the limitation to the listed countries in section 802(c) of the act virtually meaningless.

FDA, however, interprets section 802(c) of the act as permitting investigational new drugs to be sent to principal investigators in a listed country who use the investigational new drug in an unlisted country if the principal investigator conducts the clinical investigations in accordance with the requirements of both the listed country and the unlisted country where the investigation is conducted. For example, if firm A exported an investigational new drug to principal investigator X in Norway (a listed country), section 802(c) of the act would

permit exportation to proceed without prior FDA authorization so long as firm A and the exported drug met all other statutory conditions pertaining to the exportation. Principal investigator X could then administer the investigational new drug in an unlisted country so long as principal investigator X conducts the clinical investigation in accordance with Norwegian requirements and any requirements in the unlisted country where the investigational new drug is administered.

If the drug presents an imminent hazard to the public health or safety of the foreign country, fails to comply with labeling requirements, or is not promoted in accordance with labeling requirements, section 802(f) of the act requires the agency to consult with the appropriate public health official in the foreign country. Section 802(g) of the act requires exporters to maintain records of all drugs exported under section 802 of the act. This provision of the act allows enforcement of section 802 of the act because it provides FDA with a means to determine what drugs have been exported under section 802 of the act and where the drugs were sent. Consequently, although proposed § 312.110(b)(3) would not require firms to submit reports to the agency concerning exported drugs, it would, consistent with section 802 of the act, require firms to maintain records documenting their compliance with section 802(c) and (f) of the act. In the **Federal Register** of December 19, 2001 (66 FR 65429), FDA published a final rule concerning the recordkeeping and notification requirements for products exported under sections 801(e) and 802 of the act and section 351(h) of the Public Health Service Act; the recordkeeping and notification requirements will be codified in a new § 1.101.

Additionally, proposed § 312.110(b)(3) would provide that exports of drugs that are not under an IND to the listed countries for investigational use under section 802(c) of the act do not have to comply with the labeling requirement in § 312.6(a). Section 312.6(a) requires that the immediate package for an investigational new drug bear the following statement: ''Caution: New Drug–Limited by Federal (or United States) law to investigational use.'' In response to industry concerns, FDA is proposing to exempt unapproved new drugs exported under section 802(c) of the act and that are not under an IND from the label statement requirement in § 312.6(a). The industry expressed concerns in response to a preliminary, informal FDA interpretation shortly after enactment of the FDA Export Reform and Enhancement Act of 1996 indicating that all unapproved new drugs exported for investigational use under section 802(c) of the act should carry the label statement provided in § 312.6(a). After careful consideration, FDA has decided that drugs exported under section 802(c) of the act that are not under an IND should be exempted from the label statement in § 312.6(a). FDA is proposing the exemption because the principal authority for § 312.6 is section 505(i) of the act, but section 802© of the act expressly declares that exports under section 802© of the act are not subject to the requirements in section 505(i) of the act. An investigational new drug exported under an IND, however, would continue to be subject to the label requirement as the investigational new drug remains subject to section 505(i) of the act by virtue of the IND.

Proposed § 312.110(b)(4) would represent the fourth mechanism for exporting an investigational new drug and would pertain to unapproved new drugs exported to any country for investigational use without an IND, although the agency anticipates that the provision would be used by persons who intend to export a drug for investigational use to countries that are not listed in section 802 of the act and proposed § 312.110(b)(2). Proposed § 312.110(b)(4) would streamline the requirements for the 312 program by eliminating the requirement of prior FDA authorization. Instead, the proposal would require a person seeking to export an unapproved new drug for investigational use without an IND to send a written certification to FDA. The certification would be submitted at the time the drug is first exported and would describe the drug being exported (i.e., trade name (if any), generic name, and dosage form), identify the country or countries to which it is being exported, and affirm that:

- The drug is intended for export;[1]
- The drug is intended for investigational use in a foreign country;
- The drug meets the foreign purchaser's or consignee's specifications;
- The drug is not in conflict with the importing country's laws;
- The outer shipping package is labeled to show that the package is intended for export from the United States;
- The drug is not sold or offered for sale in the United States;
- The clinical investigation will be conducted in accordance with § 312.120;
- The drug is manufactured, processed, packaged, and held in substantial conformity with current good manufacturing practices;
- The drug is not adulterated within the meaning of section 501(a)(1), (a)(2)(A), (a)(3), (c), or (d) of the act;[2]
- The drug does not present an imminent hazard to public health, either in the United States if the drug were to be reimported or in the foreign country;
- The drug is labeled in accordance with the foreign country's laws; and
- The drug is promoted in accordance with its labeling.

In short, the certification in proposed § 312.110(b)(4) would combine the statutory requirements at sections 801(e)(1) and 802(f) of the act with the requirements of informed consent and the use of qualified clinical investigators at section 505(i) of the act. This approach is intended to accomplish several goals.

First, because the agency's experience with the 312 program indicates that very few investigational new drug exports under the existing program raise any safety, quality, or other public health concerns, the certification would eliminate the requirement of prior FDA authorization of a request to export a drug for investigational use. Instead, a certification would be sent to FDA's Office of International Programs (formerly the Office of International Affairs) when the drug is exported.

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[1]This requirement would be consistent with a decision by the United States Court of Appeals for the Fourth Circuit in *United States* v.*Kanasco, Ltd.*, 123 F.3d 209 (4th Cir. 1997), in which a firm sought to claim that drugs that were not manufactured in accordance with good manufacturing practices (GMPs) were nevertheless exempt from the GMP requirements because they were intended for export. However, the firm did not have a foreign purchaser for the drug and could not identify a specific foreign country to which the drug would be exported; instead, it argued that it could find a foreign purchaser at a future date and that the drugs met the requirements of unnamed and unspecified foreign countries. The Court of Appeals rejected the arguments that the drug was intended for export, stating that the firm's argument ''would create an unwarranted escape hatch for violators of the Act'' (id. at page 212).

[2]In brief, these sections of the act state that a drug shall be deemed to be adulterated if it consists in whole or in part of any filthy, putrid, or decomposed substance; if it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; if its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; if the drug's strength differs from or its purity or quality falls below that which it purports or is represented to possess; or if any substance has been mixed or packed with the drug so as to reduce the drug's quality or strength or any substance has been substituted in whole or in part for the drug.

Second, by requiring exports under the 312 program to comply with requirements that are similar to those under sections 801(e)(1) and 802(f) of the act, exports under the 312 program would be subject to the same minimum export requirements as other exports of unapproved new drugs for investigational use.

Third, by conditioning exports to unlisted countries under the 312 program on the conduct of clinical investigations in accordance with § 312.120, the use of investigational new drugs under the 312 program would be clearly subject to internationally recognized requirments for clinical investigations. This aspect of the proposed rule also reflects the fact that section 505(i) of the act, which authorizes FDA to issue regulations pertaining to investigational new drugs, is the authority for the 312 program. (In contrast, unapproved new drugs exported for investigational use to listed countries under section 802(c) of the act are not subject to the requirements in section 505(i) of the act.)

Thus, the proposed rule would streamline the 312 program by eliminating, in all cases, the requirement of prior FDA authorization of exports. At the same time, the proposal would increase the safeguards for exports under the 312 program through the responsibilities placed on the sponsor as a result of the required certification.

Persons exporting investigational new drugs under an IND or under the 312 program should note that section 402(j) of the Public Health Service Act (42 U.S.C. 282(j)) directs the Secretary of Health and Human Services to establish, maintain, and operate a data bank of information on clinical trials for drugs for serious or life-threatening diseases and conditions. FDA invites comment on whether the agency should make available information on clinical trials involving investigational new drugs exported under the 312 program.

Proposed § 312.110(b)(4) would also require the person exporting the investigational new drug to retain records showing its compliance with the provision's requirements.

Proposed § 312.110© would prohibit exports under certain conditions. For example, for drugs under an IND that are exported under proposed § 312.110(b)(1), exportation would not be allowed if the IND were terminated. For drugs exported under proposed § 312.110(b)(2), (b)(3), or (b)(4), exportation would not be allowed if the requisite conditions underlying or authorizing the exportation are no longer met. For all investigational new drugs exported under § 312.110, exportation would not be allowed if the drug no longer complied with the laws of the importing country.

Currently, § 312.110(b)(4) states that the requirements in § 312.110(b) do not apply to the export of new drugs (including biological products, antibiotic drugs, and insulin) approved or authorized for export under section 802 of the act or section 351(h)(1)(A) of the Public Health Service Act. The proposal would redesignate § 312.110(b)(4) as new § 312.110(d) and revise the text to state that the export requirements in § 312.110 do not apply to insulin or to antibiotic drug products exported for investigational use. This provision would reflect section 802(i) of the act which provides that insulin and antibiotics may be exported in accordance with the export requirements in section 801(e)(1) of the act without complying with section 802 of the act. The proposed change would also eliminate a potentially confusing and incorrect reference to new drugs ''approved or authorized for export under section 802 of the act * * * or section 351(h)(1)(A) of the Public Health Service Act'' because the proposal does, indeed, address exports of unapproved new drugs for investigational use under section 802(b)(1) and (c) of the act. Also, § 312.110, and the regulations in part 312 generally, apply only to exports of investigational new drugs, so there is no need for § 312.110 to expressly exclude exports of unapproved new drugs for other, noninvestigational uses. For example, exports of unapproved new drugs for marketing purposes or exports in anticipation of market authorization occur under the authority in section 802 of the act, and obviously are not investigational uses. As for section 351(h) of the Public Health Service Act, it pertains to exports of partially processed biological products that are: (1) Not in a form applicable to the prevention, treatment, or cure of diseases or injuries of man; (2) not intended for sale in the United States; and (3) intended for further manufacture into final dosage form outside the United States. Thus, partially processed biological products exported under section 351(h) of the Public Health Service Act are not exported for investigational use, so they do not have to be mentioned in § 312.110. (FDA also notes that the FDA Export Reform and Enhancement Act of 1996 revised and renumbered section 351(h) of the Public Health Service Act, and so the revised section no longer contains a paragraph (h)(1)(A).)

FDA is also proposing to amend the authority citation for part 312 to reflect additional statutory provisions, such as sections 801, 802, 803, and 903 of the act (21 U.S.C. 381, 382, 383, and 393), that affect investigational new drug exports, FDA's international activities, and rulemaking. In addition, the proposal would remove the existing text at § 312.110(b)(3); the existing text states that the export requirements in § 312.110(b) apply only where the drug is to be used for the purpose of a clinical investigation. FDA is proposing to delete this language because the proposed rule expressly refers to exports of investigational new drugs for use in clinical investigations.

Firms evaluating whether to export a drug under these provisions should carefully consider the consequences of any decision. FDA notes that exports under section 802(b)(1)(A) and (c) of the act do not require the exporter to be a sponsor of an IND. However, the existing patent term restoration provision in 35 U.S.C. 156 defines the ''regulatory review period'' for drugs and biologics as starting on the date on which an IND becomes effective.[3] Thus, if the drug product is ultimately approved or licensed for marketing and the patent is otherwise eligible for patent term extension under 35 U.S.C. 156, firms that conducted clinical investigations without an IND may have relinquished the opportunity to extend a patent term to compensate for any patent life lost during the ''testing phase'' for their drugs (although they may still be able to receive an extended patent term based on the ''approval phase'' for their products). Therefore, as a general matter, firms may find it in their interests to obtain an IND regardless of where the clinical investigations will occur.

## III. Legal Authority

Section 505(i) of the act authorizes the agency to issue regulations pertaining to drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs. Under this authority, FDA has, for many years, approved the export of certain unapproved new drugs for investigational use in one or more foreign countries. Additionally, FDA can, under its general authority over

[3]For drugs, the ''regulatory review period'' consists of two parts, a ''testing phase''—the time between the effective date of an IND and the submission of a marketing application (a new drug application or a product license application) to FDA—and an ''approval phase''—the time between submission and approval of the marketing application. The regulatory review period calculation forms the basis for the extended patent term.

investigational new drugs, terminate an IND under certain conditions.

The proposed rule is consistent with section 505(i) of the act insofar as proposed § 312.110(b)(1) would pertain to drugs that are the subject of an IND and proposed § 312.110(b)(4) would require clinical investigations involving an investigational new drug without an IND that is exported to a foreign country to be conducted in accordance with § 312.120. Section 505(i) of the act also gives FDA express authority to issue regulations pertaining to investigational new drugs.

The proposed rule is also authorized by sections 801(e) and 802 of the act. Sections 801(e) and 802 of the act both address the export of drug products that may not be marketed or sold in the United States, but in different ways. Under section 801(e)(1) of the act, a drug product intended for export will not be considered to be adulterated or misbranded if it: (1) Accords to the specifications of the foreign purchaser, (2) is not in conflict with the laws of the country to which it is intended for export, (3) is labeled on the outside of the shipping package that it is intended for export, and (4) is not sold or offered for sale in domestic commerce. Section 801(e)(1) of the act reflects a general view that a U.S. producer should be able to make products intended for export that do not meet U.S. requirements provided that the products meet the requirements of both the purchaser and receiving country. Although section 801(e)(1) of the act does not expressly apply to unapproved new drugs, the requirements in section 801(e)(1) of the act do apply to all drug products exported under section 802 of the act (see section 802(f)(3) of the act).

Section 802 of the act applies to unapproved drug products intended for export. Section 802© of the act applies to exports of unapproved drug products intended for investigational use. As stated earlier, section 802© of the act permits the export of a drug or device intended for investigational use to Australia, Canada, Israel, Japan, New Zealand, Switzerland, South Africa, or any country in the EU or EEA in accordance with the laws of the importing country. No prior FDA authorization is required, and exports under section 802© of the act are also exempt from regulation under section 505(i) of the act. However, section 802(f) of the act prohibits export of a drug if certain conditions are not met (such as conformity with current good manufacturing practices, compliance with section 801(e)(1) of the act, and certain practices that would cause the drug to be adulterated under certain provisions of section 501 of the act).

The proposed rule is, therefore, authorized by sections 801(e)(1) and 802 of the act because proposed § 312.110(b)(2) would pertain to drugs exported under section 802(b) of the act and would require that such exports comply with section 802(f) of the act (which includes compliance with section 801(e) of the act). Proposed § 312.110(b)(3) would pertain to exports of investigational new drugs to listed countries, under section 802© of the act, and would also require compliance with section 802(f) of the act. Authority to issue regulations to implement sections 801(e) and 802 of the act, and for the efficient enforcement of the act generally, is authorized under section 701(a) and (b) of the act (21 U.S.C. 371(a) and (b)). Section 903 of the act also provides general powers for implementing policies respecting FDA programs and activities.

Thus, the proposed rule implements sections 505(i), 801(e)(1), and 802 of the act. Furthermore, it is also authorized under FDA's rulemaking authorities at sections 505(i) and 701(a) of the act, and FDA's general authority at section 903 of the act.

## IV. Environmental Impact

FDA has determined under 21 CFR 25.30(h) and (i), and 25.31(e) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

## V. Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). A description of these provisions is given below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

*Title*: Investigational New Drug Applications: Export Requirements for Unapproved New Drug Products.

*Description*: The proposed rule would provide four different mechanisms for exporting an investigational new drug. First, an investigational new drug could be exported under an IND to any country. Second, an investigational new drug that has received valid marketing authorization from a listed country may be exported for investigational use in any country subject to certain conditions (such as being in substantial conformity with current good manufacturing practice). Third, an investigational new drug could be exported to any listed country without prior FDA authorization for use in a clinical investigation, but would be subject to certain conditions (such as being in substantial conformity with current good manufacturing practices). Fourth, an investigational new drug could be exported provided that the sponsor submits a certification that the drug meets certain export criteria at the time the drug is exported. The proposal would also require persons exporting an investigational new drug under either the second, third, or fourth mechanisms to maintain records documenting their compliance with statutory and regulatory requirements.

*Description of Respondents*: Businesses.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

| 21 CFR Section | No. of Respondents | Annual Frequency per Response | Total Annual Responses | Hours per Response | Total Hours |
|---|---|---|---|---|---|
| 312.110(b)(4) | 100 | 1 | 100 | 12 | 1,200 |

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]—Continued

| 21 CFR Section | No. of Respondents | Annual Frequency per Response | Total Annual Responses | Hours per Response | Total Hours |
|---|---|---|---|---|---|
| Total | | | | | 1,200 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

| 21 CFR Section | Statute | No. of Recordkeepers | Annual Frequency per Recordkeeping | Total Annual Records | Hours per Recordkeeper | Total Hours |
|---|---|---|---|---|---|---|
| 312.100(b)(2) and (b)(3) | Sec. 382 | 470 | 1 | 470 | 3 | 1,410 |
| 312.110(b)(4) | | 100 | 1 | 100 | 1 | 100 |
| Total | | | | | | 1,510 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimates are based on average export submissions in previous years and on information supplied by industry sources. For the recordkeeping requirement in proposed § 312.110(b)(2) and (b)(3), FDA used the average annual number of export requests in previous years before enactment of the FDA Export Reform and Enhancement Act (approximately 570) and subtracted the number of export requests that it currently receives under the 312 program (100) to obtain an estimated 470 recordkeepers. These records, in general, would be subject to § 1.101 (66 FR 65429), and the estimated burden hours for the relevant parts of § 1.101 total 3 hours. Thus, the total record burden hours for § 312.110(b)(2) and (b)(3) would be 1,410 hours (470 records multiplied by 3 hours per record).

For proposed § 312.110(b)(4), industry sources indicated that most firms already maintain records to demonstrate their compliance with export requirements, so the agency assigned a value of 1 hour for each response. The total recordkeeping burden for proposed § 312.110(b)(4), therefore, is 100 hours (100 records multiplied by 1 hour per record).

Thus, the total recordkeeping burden would be 1,510 hours (1,410 + 100 = 1,510). Of this recordkeeping burden, 1,410 hours would be a statutory burden (because section 802(g) of the act requires persons exporting drugs under section 802 of the act to maintain records of all drugs exported and the countries to which they were exported).

For the reporting requirement in proposed § 312.110(b)(4), FDA's experience under the 312 program suggests that extremely few reports would be submitted. Assuming that 100 requests are received (the current number of requests under the 312 program) and that the reporting burden remains constant at approximately 12 hours per response, the total burden under proposed § 312.110(b)(4) would be 1,200 hours. The reporting burden would be a regulatory (rather than statutory) burden.

There are no capital or startup costs or service costs projected for this rule due to the minimal nature of the recordkeeping and reporting requirements. Consultations with industry sources estimate that the average costs of maintaining records would be $100 per record (for a total annual cost of $151,000 (1,510 total records per year x $100 per record)).

The annual reporting cost is estimated to be $36,000. This estimate is based on the estimated total burden hours for the certification (1,200) multiplied by a wage of $30 per hour (1,200 hours x $30 per hour =$36,000).

Thus, the total industry cost would be $187,000 ($151,000 + $36,000 = $187,000).

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the agency has submitted the information collection provisions of this proposed rule to OMB for review. Interested persons are requested to send comments regarding information collection to the Office of Information and Regulatory Affairs, OMB (address above) by July 19, 2002.

## VI. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612 (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121))), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Under the Regulatory Flexibility Act, unless an agency certifies that a rule will not have a significant impact on small entities, the agency must analyze regulatory options that would minimize the impact of the rule on small entities.

The Unfunded Mandates Reform Act of 1995 requires that agencies prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year.

The agency has reviewed this proposed rule and determined that it is consistent with the regulatory philosophy and the principles identified in the Executive Order 12866 and these two statutes, as it will not result in an expenditure of $100 million or more in any one year. Because the rule raises novel policy issues, OMB has determined that this proposed rule is a significant regulatory action as defined under paragraph 4 of section 3(f) of Executive Order 12866.

The proposed rule would facilitate exports of unapproved new drug products for use in clinical investigations in foreign countries by eliminating the need to submit requests for permission to export the drugs and to receive FDA authorization. This change would reduce the cost to the affected small firms. Thus, the agency certifies that this proposed rule will not have a significant economic impact on

a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

Because the proposed rule does not impose any mandates on State, local, or tribal governments, or the private sector that will result in an expenditure of $100 million or more in any one year, FDA is not required to perform a cost-benefit analysis under the Unfunded Mandates Reform Act of 1995.

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this proposal by September 17, 2002. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

**List of Subjects in 21 CFR Part 312**

Drugs, Exports, Imports, Investigations, Labeling, Medical research, Reporting and recordkeeping requirements, Safety.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 312 be amended as follows:

## PART 312—INVESTIGATIONAL NEW DRUG APPLICATION

1. The authority citation for 21 CFR part 312 is revised to read as follows:

**Authority:** 21 U.S.C. 321, 331, 351, 352, 353, 355, 356, 357, 371, 381, 382, 383, 393; 42 U.S.C. 241, 243, 262.

2. Section 312.110 is amended by revising paragraph (b) and by adding paragraphs (c) and (d) to read as follows:

**§ 312.110 Import and export requirements.**

* * * * *

(b) *Exports.* An investigational new drug may be exported from the United States for use in a clinical investigation under any of the following conditions:

(1) An IND is in effect for the drug under § 312.40, the drug complies with the laws of the country to which it is being exported, and each person who receives the drug is an investigator in a study submitted to and allowed to proceed under the IND; or

(2) The drug has valid marketing authorization in Australia, Canada, Israel, Japan, New Zealand, Switzerland, South Africa, or in any country in the European Union or the European Economic Area, and complies with the laws of the country to which it is being exported, section 802(b)(1)(A), (f), and (g) of the act, and § 1.101 of this chapter; or

(3) The drug is being exported to Australia, Canada, Israel, Japan, New Zealand, Switzerland, South Africa, or to any country in the European Union or the European Economic Area, and complies with the laws of the country to which it is being exported, the applicable provisions of section 802(c), (f), and (g) of the act, and § 1.101 of this chapter. Drugs exported under this paragraph that are not the subject of an IND are exempt from the label requirement in § 312.6(a); or

(4) The person exporting the drug sends a written certification to the Office of International Programs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, at the time the drug is first exported and maintains records documenting compliance with this paragraph. The certification shall describe the drug that is to be exported (i.e., trade name (if any), generic name, and dosage form), identify the country or countries to which the drug is to be exported, and affirm that:

(i) The drug is intended for export;

(ii) The drug is intended for investigational use in a foreign country;

(iii) The drug meets the foreign purchaser's or consignee's specifications;

(iv) The drug is not in conflict with the importing country's laws;

(v) The outer shipping package is labeled to show that the package is intended for export from the United States;

(vi) The drug is not sold or offered for sale in the United States;

(vii) The clinical investigation will be conducted in accordance with § 312.120;

(viii) The drug is manufactured, processed, packaged, and held in substantial conformity with current good manufacturing practices;

(ix) The drug is not adulterated within the meaning of section 501(a)(1), (a)(2)(A), (a)(3), (c), or (d) of the act;

(x) The drug does not present an imminent hazard to public health, either in the United States, if the drug were to be reimported, or in the foreign country;

(xi) The drug is labeled in accordance with the foreign country's laws; and

(xii) The drug is promoted in accordance with its labeling.

(c) *Limitations.* Exportation under paragraph (b) of this section may not occur if:

(1) For drugs exported under paragraph (b)(1) of this section, the IND pertaining to the clinical investigation is no longer in effect;

(2) For drugs exported under paragraph (b)(2) of this section, the requirements in section 802(b)(1), (f), or (g) of the act are no longer met;

(3) For drugs exported under paragraph (b)(3) of this section, the requirements in section 802(c), (f), or (g) of the act are no longer met; or

(4) For drugs exported under paragraph (b)(4) of this section, the conditions underlying the certification are no longer met.

(5) For any investigational new drugs under this section, the drug no longer complies with the laws of the importing country.

(d) *Insulin and antibiotics.* New insulin and antibiotic drug products may be exported for investigational use in accordance with section 801(e)(1) of the act without complying with this section.

Dated: September 18, 2001.

**Margaret M. Dotzel,**

*Associate Commissioner for Policy.*

[FR Doc. 02–15358 Filed 6–18–02; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### 23 CFR Part 450

**[FHWA Docket No. FHWA–99–5933]**

**FHWA RIN 2125–AE95; FTA RIN 2132–AA75**

### Statewide Transportation Planning; Metropolitan Transportation Planning

**AGENCY:** Federal Highway Administration (FHWA).

**ACTION:** Supplemental notice of proposed rulemaking (SNPRM); request for comments.

**SUMMARY:** As a result of recent congressional direction regarding consultation with non-metropolitan local officials in transportation planning, and based on the comments the FHWA and the FTA received to the May 25, 2000, Planning NPRM, and the congressional hearings on the NPRM, we are proposing another option on non-metropolitan local official consultation in addition to that proposed in the May 2000 Planning NPRM. This proposal would revise the current statewide planning regulation at 23 CFR 450. Specifically, this SNPRM proposes to closely follow the Transportation Equity Act for the 21st Century (TEA–21), but allows State flexibility to determine who are non-metropolitan local officials and how to consult with them. Consequently, we are soliciting public comment on an additional proposal to incorporate

consultation with non-metropolitan local officials into our current planning regulations.

**DATES:** Comments must be received on or before August 19, 2002.

**ADDRESSES:** Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at *http://dmses.dot.gov/submit.* All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

**FOR FURTHER INFORMATION CONTACT:** For the FHWA: Mr. Dee Spann, Statewide Planning Team (HEPS), (202) 366–4086 or Mr. Reid Alsop, Office of the Chief Counsel (HCC–31), (202) 366–1371. For the FTA: Mr. Paul Verchinski, Statewide Planning Division (TPL–11) or Mr. Scott Biehl, Office of the Chief Counsel (TCC–30), (202) 366–0952. Both agencies are located at 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours for the FHWA are from 7:45 a.m. to 4:15 p.m., e.t., and for the FTA are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Electronic Access and Filing**

You may submit or retrieve comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit.* Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

An electronic copy of this document may be downloaded using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may also reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's web page at: *http://www.access.gpo.gov/nara.*

**Background**

Section 1025 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102–240, 105 Stat. 1914, (December 18, 1991), amended title 23, United States Code (U.S.C.), section 135 and established a requirement for Statewide Transportation Planning and stated, ''The transportation needs of non-metropolitan areas should be considered through a process that includes consultation with local elected officials with jurisdiction over transportation.'' The ISTEA further stated ''Projects undertaken in areas of less than 50,000 population (excluding projects undertaken on the National Highway System and pursuant to the bridge and Interstate maintenance programs) shall be selected by the State in cooperation with the affected local officials. Projects undertaken in such areas on the National Highway System or pursuant to the bridge and Interstate maintenance programs shall be selected by the State in consultation with the affected local officials.''

Section 1204 of the TEA–21, Public Law 105–178, 112 Stat. 107 (June 9, 1998), further amended 23 U.S.C. 135, while preserving the statewide planning requirement for a continuing, comprehensive and cooperative planning process. The TEA–21 did not significantly alter the current decisionmaking relationship among governmental units. This amendment demonstrates Congress' continued emphasis on State decisionmaking, but requires States to consult with non-metropolitan local officials in transportation planning and programming. This consultation with non-metropolitan local officials in transportation planning and programming is the specific subject of this SNPRM.

The FHWA and the FTA published a notice of proposed rulemaking (NPRM) on May 25, 2000 (65 FR 33922), that detailed proposed revisions to the existing planning regulations issued on October 28, 1993, at 58 FR 58040. The May 2000 Planning NPRM included provisions, different from those offered herein, regarding consultation with non-metropolitan local officials. Comments were solicited until August 23, 2000 (later extended to September 23, 2000, by a July 7, 2000, **Federal Register** notice at 65 FR 41891). The docket is still open, and comments to this SNPRM will be placed in that docket.

**Input to Development of the SNPRM**

During the comment period on the proposed rule (May 25, 2000, through September 23, 2000), the FTA and the FHWA held seven public meetings to present information on the May 2000 Planning NPRM. Although the attendees were encouraged to submit all comments to the docket, several raised questions at the meetings. Therefore, a summary of questions raised at the meetings and the general responses of the FHWA and the FTA presenters is included in the docket.

A summary of all comments by section of the May 2000 Planning NPRM has been prepared by the FHWA and the FTA and inserted in the docket. We have carefully reviewed all comments. Those comments that pertain to the sections relating to consultation with non-metropolitan local officials are discussed below.

During the comment period (on September 12 and 13, 2000) the Senate Environment and Public Works and House Transportation and Infrastructure Committees held hearings regarding the May 2000 Planning NPRM. The FHWA and the FTA have reviewed the comments and questions raised at these hearings.

The House report that accompanied the U.S. DOT Appropriations Act for fiscal year (FY) 2002, and the conference report for the Department of Defense FY 02 Appropriations Act, which contained several transportation issues, included language directing the U.S. DOT to promulgate a final rule, no later than February 1, 2002, to amend the FHWA and FTA planning regulations to ensure transportation officials from rural areas are consulted in long range transportation planning and programming.

**Discussion of Comments on the NPRM Related to Local Official Consultation**

There were over 400 documents (representing just over 300 discrete comments) submitted to the May 2000 Planning NPRM docket. We received diverse and opposing comments. The following discussion addresses only the comments related to consultation with non-metropolitan local officials.

We received 50 comments on the non-metropolitan local official participation provisions we proposed in 23 CFR Part 1410. These comments focused mostly on § 1410.212, ''Participation by interested parties,'' which we proposed as the primary section on consultation with non-metropolitan local officials in the May 2000 Planning NPRM. Seven of the comments were from groups representing a total of 42 separate

entities, resulting in a total of 85 commenters on this provision. There were 19 opposing comments, primarily from State DOTs and the American Association of State Highway and Transportation Officials (AASHTO). There were 31 supporting comments, primarily from local entities (local governments, local officials and regional agencies) and associations representing local entities, including the National Association of Counties (NACO) and the National Association of Development Organizations (NADO).

The AASHTO, representing the State DOTs, commented that the FHWA and the FTA should clarify that it would not be necessary for States to obtain the consent of other parties to the consultation procedures for their State and that the State is the responsible party for establishing and implementing a consultation process. The NACO and the NADO, representing local officials, county governments and regional organizations, supported the language requiring a documented process for each State which retains the flexibility to tailor a consultation process to fit local circumstances. Several commenters were concerned that the proposal would be misinterpreted as creating a ''co-equal'' role in State decisionmaking by local officials and requested this be clarified.

The FHWA and the FTA have reviewed these comments and have formulated an alternate option calling for consultation with non-metropolitan local officials in the statewide planning process. The option is being proposed as a revision to the current regulation and as an additional option to that proposed in the May 2000 Planning NPRM. We welcome comments on this alternate option.

**Section-by-Section Analysis**

The FHWA and the FTA specifically request comments and ideas on the non-metropolitan local official consultation language proposed in this SNPRM. Comparison assessments with the non-metropolitan local official consultation language proposed in the May 2000 Planning NPRM are welcome also. In this SNPRM we are not soliciting comment on the other features of the May 2000 Planning NPRM, nor are we proposing language in this SNPRM on any other features of the May 2000 Planning NPRM other than the section on consultation with non-metropolitan local officials.

The May 2000 Planning NPRM proposed to amend the existing planning regulation, 23 CFR part 450, by replacing it with a new part 1410. Consultation with non-metropolitan local officials provisions appeared in several sections of the May 2000 Planning NPRM: portions of §§ 1410.104, 1410.208, 1410.212, 1410.214, 1410.216 and 1410.224. Although in the May 2000 Planning NPRM we proposed to remove 23 CFR 450 and replace it with 23 CFR 1410, in this SNPRM we are proposing not to remove 23 CFR 450, but rather, to amend sections of 23 CFR 450 to include language that addresses consultation with non-metropolitan local officials. Accordingly, we are proposing amendments to the provisions of the following sections of the existing planning regulation: §§ 450.104, 450.206, 450.212, 450.214, 450.216 and 450.224. We are not proposing amendments to the provisions of § 450.222 that relate to consultation with non-metropolitan local officials. The primary section on consultation with non-metropolitan local officials is proposed as § 450.212(h). This section-by-section analysis only addresses those sections that cover consultation with non-metropolitan local officials.

*Section 450.104*

Based on comments received on the May 2000 Planning NPRM, in this SNPRM we propose new definitions of ''consultation'' and ''non-metropolitan area.''

More than twenty discrete comments were received on the proposed definition of consultation; some were opposed and some were supportive. The FTA and the FHWA now propose a definition of ''consultation'' that is more consistent with the legislative language. The proposed definition eliminates the reference to a process and focuses on keeping other parties informed.

In the May 2000 Planning NPRM we proposed adding the definition of a ''non-metropolitan local official.'' In this SNPRM, we are proposing to add the definition of ''non-metropolitan area.'' The definition we propose of a ''non-metropolitan area'' recognizes that there are a variety of local officials that serve non-metropolitan areas '' this could include local elected officials, local officials with responsibility for transportation, officials of general purpose local government, officials associated with Federal lands managing agencies, and possibly tribal officials. This definition focuses on specifying the geographic area served by non-metropolitan officials to distinguish them from local officials representing metropolitan areas who are involved through the metropolitan planning organization (MPO).

The FHWA and the FTA do not propose to change the definition of ''cooperation'' and ''coordination,'' because common practice has revealed no issues with the meaning of these terms.

*Section 450.206*

This section of the existing regulation deals with the general requirements of the statewide transportation planning process. The TEA–21 clearly emphasizes the importance of recognizing non-metropolitan transportation issues and consulting with non-metropolitan local officials. The FHWA and the FTA propose revising § 450.206(b) and adding a new § 450.206(c) to clarify that effective consideration of non-metropolitan transportation issues and concerns and involvement of non-metropolitan local officials can be enhanced by coordinating statewide transportation planning with related planning in non-metropolitan areas.

*Section 450.212*

We received over 150 comments on the May 2000 Planning NPRM § 1410.212, Participation by Interested Parties. The proposed § 1410.212 of the May 2000 Planning NPRM was proposed to replace § 450.212 of the current planning regulation. The majority of these comments focused on consultation with non-metropolitan local officials. In addition to the comments submitted to the docket, the FHWA and the FTA used information from other activities, including the FHWA–FTA study on participation of non-metropolitan local officials required by the TEA–21 and ten rural listening sessions held throughout the country to develop the SNPRM.[1]

We propose to revise the provisions of § 450.212 to reflect more closely the language of the legislation concerning consultation with non-metropolitan local officials and the comments received to date in the docket. The language we propose focuses on the intended result of the process to be ''effective participation'' of local officials in statewide transportation planning. Because the statutory

[1] The study on the non-metropolitan local officials report is currently being reviewed within DOT; however, two of the study products (Rural Transportation Consultation Processes, May 2000, and Rural Transportation Consultation Processes; State by State Summaries, April 2001) are available at the following URL: *http://www.napawash.org.* A summary of each of the ten rural workshops held in 1998–99 (Rural Transportation Planning Workshops, Summary 1999) is available at the following URL: *http://www.fhwa.dot.gov/hep10/state/rural.html.* The reports mentioned in this footnote are also in the May 2000 Planning NPRM docket.

language refers to a variety of types of local officials, our proposal does not specify whether they must be elected officials or non-elected officials. Rather, we propose State flexibility for determination of which local officials should be most appropriately involved in their State's statewide transportation planning process.

*Section 450.214*

The TEA–21 specifically states ''with respect to each non-metropolitan area, the long-range transportation plan shall be developed in consultation with affected local officials with responsibility for transportation,'' now codified at 23 U.S.C. 135(e)(2)(B). Therefore, the FHWA and the FTA propose adding § 450.214(f) to reflect the intent of the statute by proposing language that requires affected local officials with responsibility for transportation to be involved on a consultation basis in developing the statewide transportation plan as it relates to the non-metropolitan areas of the State.

*Section 450.216*

The TEA–21 specifically states ''with respect to each non-metropolitan area in the State, the program shall be developed in consultation with affected local officials with responsibility for transportation,'' now codified at 23 U.S.C. 135(f)(1)(B)(ii)(I). Therefore, the FHWA and the FTA propose adding § 450.216(e) to reflect the intent of the statute by proposing language that requires affected local officials with responsibility for transportation to be involved on a consultation basis in developing the statewide transportation improvement program as it relates to the non-metropolitan areas of the State.

*Section 450.224*

This SNPRM proposes a six-month phase-in period (to end six months after the effective date of a final rule, if we decide to issue a final rule). After this period, the consultation aspects of the statewide transportation planning process will be emphasized as we assess the planning process and make the Federal planning finding required in 23 CFR 450.220(b) and 23 U.S.C. 135(f)(4). We considered a longer phase-in period, but decided not to propose it since the statutory language has been in effect for almost four years and this proposal mirrors statutory language.

There is one other section in the existing regulation with language related to consultation with non-metropolitan local officials, 23 CFR 450.222 ''Project selection for implementation.'' However, the FHWA and the FTA do not propose to modify that section in this SNPRM.

**Rulemaking Analyses and Notices**

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the agencies may issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA and the FTA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material.

**Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures**

This rulemaking is an alternative option to the agencies' May 2000 Planning NPRM proposing to amend the agencies' planning regulations regarding the consultation with non-metropolitan local officials. The FHWA and the FTA have determined preliminarily that this action would be a significant regulatory action within the meaning of Executive Order 12866 and the Department of Transportation regulatory policies and procedures, because the proposed action concerns a matter on which there is substantial public interest. The agencies anticipate that the economic impact of this rulemaking would be minimal. This action proposes to amend a portion of the current planning regulations for which substantial financial assistance is provided to the States by both the FHWA and the FTA to support compliance with the requirements of the regulation.

These proposed changes would not adversely affect, in a material way, any sector of the economy. In addition, these changes would not create a serious inconsistency with any other agency's action or materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs; nor will the proposed amendment of this regulation raise any novel legal or policy issues. Therefore, a full regulatory evaluation is not required.

**Regulatory Flexibility Act**

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 60 1–612), the FHWA and the FTA have evaluated the effects of this SNPRM on small entities and has determined it would not have a significant economic impact on a substantial number of small entities.

The modifications proposed in this SNPRM are substantially dictated by the statutory provisions of the TEA–21 and the agencies believe that the flexibility available to the States in those provisions has been maintained. For these reasons, the FHWA and the FTA certify that this proposed action would not have a significant economic impact on a substantial number of small entities. We are interested in any comments regarding the potential economic impacts of this proposed rule on small entities and governments.

**Unfunded Mandates Reform Act of 1995**

The FWHA and the FTA have analyzed this proposal under the provisions of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48) and believe that this SNPRM would not impose a Federal mandate resulting in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year.

The requirements of 23 U.S.C. 135 are supported by Federal funds administered by the FHWA and the FTA. There is a legislatively established local matching requirement for these funds of up to twenty percent of the total cost. The FHWA and the FTA believe that the cost of complying with these requirements is predominately covered by the funds they administer. The costs of compliance with the requirements of the planning program as a whole are eligible for funding; therefore, this proposal would not create an unfunded mandate.

Additionally, the definition of ''Federal mandate'' in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal government. The Federal-aid highway program and the Transit program permit this type of flexibility to the States.

**Executive Order 13132 (Federalism)**

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the agencies have determined that this action does not raise sufficient federalism implications to warrant the preparation of a Federalism assessment, and will not adversely affect the States' ability to discharge traditional State governmental functions.

Concern was raised by some States about burdens from the May 2000 Planning NPRM. One of the concerns is the burden resulting from the requirement for consultation with non-metropolitan local officials. The TEA–21 requires such consultation. In this SNPRM the FHWA and the FTA make it clear that already existing consultation procedures could be used to comply with these requirements.

The agencies further note that the transportation planning activities required by the planning regulations, as amended by this proposed rule, are conditions for the receipt of Federal transportation financial assistance and are reimbursable expenses. Under the provisions of title 23, U.S.C., the Federal government reimburses at least 80 percent of the costs to complete required transportation plans and transportation improvement programs.

**Executive Order 12372 (Intergovernmental Review)**

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction; 20.500 Federal Transit Capital Improvement Grants; 20.505, Federal Transit Metropolitan Planning Grants; 20.507, Federal Transit Formula Grants; 20515, State Planning and Research. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

**Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA and the FTA have determined that this proposal does not contain collection of information requirements for the purposes of the PRA.

**National Environmental Policy Act**

The FHWA and the FTA have analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347). This proposal would not constitute a major Federal action significantly affecting the quality of the human environment.

**Executive Order 13175 (Tribal Consultation)**

The FHWA and the FTA have analyzed this proposal under Executive Order 13175, dated November 6, 2000. The proposed action will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required. Consultation with tribal governments is separately referenced in TEA–21 and is not included in this SNPRM.

**Executive Order 13211 (Energy Effects)**

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. Although this proposal is a significant regulatory action under Executive Order 12866, we have determined that it is not a significant energy action under that order, because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

**Executive Order 12988 (Civil Justice Reform)**

This proposal meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

**Executive Order 13045 (Protection of Children)**

We have analyzed this proposal under Executive Order 13045, protection of Children from Environmental Health Risks and Safety Risks. This proposal is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

**Executive Order 12630 (Taking of Private Property)**

This proposal would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Government Actions and Interference with Constitutionally Protected Property Rights.

**Regulation Identification Number**

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

**List of Subjects in 23 CFR Part 450**

Grant programs—transportation, Highways and roads, Mass transportation, Reporting and recordkeeping requirements.

Issued on: June 12, 2002.

**Mary E. Peters,**

*Administrator, Federal Highway Administration.*

**Jennifer L. Dorn,**

*Administrator, Federal Highway Administration.*

In consideration of the foregoing, the FHWA proposes to amend title 23, Code of Federal Regulations, part 450, as set forth below:

## PART 450—PLANNING ASSISTANCE AND STANDARDS

1. The authority citation for part 450 continues to read as follows:

**Authority:** 23 U.S.C. 134, 23 U.S.C. 135, 23 U.S.C. 315, and 49 U.S.C. 5303–06.

2. Amend § 450.104 to revise the definition of ''consultation'' and add a definition for ''non-metropolitan area'' to read as follows:

**§ 450.104 Definitions.**

* * * * *

*Consultation* means that one party confers with another identified party and, prior to taking action(s), considers that party's views and then keeps that party informed about action(s) taken.

* * * * *

*Non-metropolitan area* means the geographic area outside designated metropolitan planning areas, as designated under 23 USC § 134 and 49 USC § 5303.

* * * * *

3. Amend § 450.206 to revise paragraph (b) and to add a paragraph (c) to read as follows:

**§ 450.206 Statewide transportation planning process: General requirements.**

* * * * *

(b) The statewide transportation planning process shall be coordinated with the metropolitan planning process required by subpart C of this part and with related planning activities being carried out outside of metropolitan planning areas.

(c) In carrying out statewide transportation planning, the State shall consider, with respect to non-metropolitan areas, the concerns of local elected officials representing units of general purpose local government.

4. Amend § 450.212 by adding a new paragraph (h) to read as follows:

**§ 450.212 Public involvement.**

* * * * *

(h) The State shall provide for non-metropolitan local official participation. The State shall have a documented process(es) for consulting with non-metropolitan local officials representing units of general purpose local government and/or local officials with responsibility for transportation that results in their effective participation in the statewide transportation planning process and development of the statewide transportation improvement program.

5. Amend § 450.214 by adding a paragraph (f) to read as follows:

**§ 450.214 Statewide transportation plan.**

* * * * *

(f) In developing the statewide transportation plan, affected local officials with responsibility for transportation shall be involved on a consultation basis for the portions of the plan in non-metropolitan areas of the State.

6. Amend § 450.216 by adding a paragraph (e) to read as follows:

**§ 450.216 Statewide transportation improvement program (STIP).**

* * * * *

(e) In developing the statewide transportation improvement program, affected local officials with responsibility for transportation shall be involved on a consultation basis for the portions of the program in non-metropolitan areas of the State.

7. Amend § 450.224 by designating the existing text as paragraph (a) and by adding a new paragraph (b) to read as follows:

**§ 450.224 Phase-in of new requirements.**

* * * * *

(b) The State has a period of six months after [30 days after publication of the final rule in the **Federal Register**] to document and implement the consultation process discussed in § 450.212(h).

[FR Doc. 02–15280 Filed 6–17–02; 4:45 pm]

BILLING CODE 4910–22–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[REG–248110–96]**

**RIN 1545–AY48**

### Guidance Under Section 817A Regarding Modified Guaranteed Contracts; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document contains a correction to a notice of proposed rulemaking and notice of public hearing (REG–248110–96) that was published in the **Federal Register** on Monday, June 3, 2002 (67 FR 38214). These regulations affect insurance companies that define the interest rate to be used with respect to certain insurance contracts that guarantee higher returns for an initial, temporary period.

**FOR FURTHER INFORMATION CONTACT:** Ann H. Logan, (202) 622–3970 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

#### Background

The notice of proposed rulemaking and notice of public hearing that is the subject of this correction is under section 817A of the Internal Revenue Code.

#### Need for Correction

As published REG–248110–96 contains an error which may prove to be misleading and is in need of clarification.

#### Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking and notice of public hearing (REG–248110–96), which is the subject of FR Doc. 02–13848, is corrected as follows:

On page 38215, column 2, in the preamble under the paragraph heading ''*Interest Rates Affecting Modified Guaranteed Contracts*'' first paragraph, lines twelve through fifteen, the language ''The temporary guarantee may be a fixed rate (non-equity indexed modified guaranteed contracts) or a rate based on bond or equity yields (equity-indexed'' is corrected to read ''The temporary guarantee may be a rate based on stocks, other equity instruments, or equity-based derivatives (equity-indexed modified guaranteed contracts) or a rate that is not related to equity performance (non-equity-indexed modified guaranteed contracts).''.

**Cynthia Grigsby,**

*Chief, Regulations Unit, Associate Chief Counsel (Income Tax and Accounting).*

[FR Doc. 02–15353 Filed 6–18–02; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Part 917

**[KY–238–FOR]**

### Kentucky Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement(OSM), Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** We are announcing a proposed amendment to the Kentucky regulatory program (the ''Kentucky program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kentucky proposes additions to its statutes about permittees' access to land to abate violations and intends to revise its program to be consistent with SMCRA. This document gives the times and locations that the Kentucky program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments on this amendment until 4 p.m., e.s.t. July 19, 2002. If requested, we will hold a public hearing on the amendment on July 15, 2002. We will accept requests to speak at a hearing until 4 p.m., e.s.t. on July 5, 2002.

**ADDRESSES:** You should mail or hand deliver written comments and requests to speak at the hearing to William J. Kovacic at the address listed below.

You may review copies of the Kentucky program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Lexington Field Office.

William J. Kovacic, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 2675 Regency Road, Lexington, Kentucky 40503, Telephone: (859) 260–8400. E-mail: *bkovacic@osmre.gov.*

Department of Surface Mining Reclamation and Enforcement, 2 Hudson Hollow Complex, Frankfort, Kentucky 40601, Telephone: (502) 564–6940.

**FOR FURTHER INFORMATION CONTACT:** William J. Kovacic, Telephone: (859) 260–8400. Internet: *bkovacic@osmre.gov.*

**SUPPLEMENTARY INFORMATION:**



## I. Background on the Kentucky Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * * and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act * * * *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Kentucky program in the May 18, 1982, **Federal Register** (47 FR 21404). You can also find later actions concerning Kentucky's program and program amendments at 30 CFR 917.11, 917.12, 917.13, 917.15, 917.16, and 917.17.

## II. Description of the Proposed Amendment

By letter dated April 25, 2002 (Administrative Record No. KY–1530), Kentucky sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Kentucky sent the amendment at its own initiative. A summary of the amended language follows. It amends the Kentucky Revised Statutes (KRS) at 350.280 and is referenced as Kentucky House Bill 809.

*Emergencies:* If Kentucky issues a cessation order requiring the immediate abatement of a violation based on imminent danger to the health and safety of the public or significant environmental harm, and the order requires access to property for which the permittee does not have legal right of entry and has been denied access to abate the violation, an easement of necessity is recognized on behalf of the permittee for the limited purpose of abating the violation. The easement becomes effective and the permittee is authorized to enter the property to undertake immediate action to abate the violation if he/she concurrently: (a) Provides to the property owner or legal occupant a copy of the cessation order; (b) provides to the owner an affadivit that the permittee has been denied access to the property; and (c) provides to the owner a statement that within three days of his entry to the property the permittee will obtain a qualified appraisal of the property damages, including loss of use, that will result from the violation as abated and those that are likely to result from the permittee's entry to abate the violation, and that the permittee will, at that time, pay the owner the amount of the damages specified in the appraisal.

The permittee must deliver the appraisal as promised, and the owner has three days to accept or reject it in writing. If the owner does not accept or reject the permittee's appraisal and offer, the permittee must pay the appraised damages to the County Circuit Clerk within three business days of the non-acceptance. The funds will be placed in an interest-bearing bank account until the issue is resolved.

If the owner rejects the permittee's appraisal, he/she may obtain his/her own appraisal and provide it to the permittee within seven days after receipt of the permittee's appraisal. The permittee must pay for the owner's appraisal, up to the amount the permittee paid for his/her own appraisal. If the owner's appraised damages are greater than the permittee's and agreement is not reached, the permittee must pay the owner the amount of the permittee's appraised damages and pay the difference to the County Circuit Clerk. The funds will be placed in an interest-bearing bank account until the issue is resolved.

*Non-emergencies:* The procedures are generally the same as those described above for emergencies. However, the easement of necessity is initially recognized only for the limited purpose of allowing the permittee's appraiser to enter the property to conduct the appraisal, which the permittee must provide within seven days instead of three. After the required procedures and payments are satisfied, the permittee may enter the property to abate the violation.

## III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

*Written Comments*

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (*see* **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Lexington Field Office may not be logged in.

*Electronic Comments*

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS No.KY–231–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Lexington Field Office at (859) 260–8400.

*Availability of Comments*

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

*Public Hearing*

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., e.s.t. July 5, 2002. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.** We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the

public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

*Public Meeting*

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

**IV. Procedural Determinations**

*Executive Order 12630—Takings*

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

*Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

*Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

*Executive Order 13132—Federalism*

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

*Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

*National Environmental Policy Act*

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C.804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

*Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

**List of Subjects in 30 CFR Part 917**

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 15, 2002.

**Allen D. Klein,**

*Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 02–15484 Filed 6–18–02; 8:45 am]

BILLING CODE 4310–05–P

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 950**

**[SPATS No. WY–030–FOR]**

## Wyoming Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** We are announcing receipt of a proposed amendment to the Wyoming regulatory program (hereinafter, the ''Wyoming program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Wyoming proposes revisions to its Coal Rules regarding placement of spoil outside of the mined-out area, clarification of self-bonding requirements, approving permit revisions, incremental bonds, incidental operation changes and termination of jurisdiction. Wyoming intends to revise its program to be consistent with the corresponding Federal regulations, provide additional safeguards, clarify ambiguities, and improve operational efficiency.

This document gives the times and locations that the Wyoming program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

**DATES:** We will accept written comments on this amendment until 4:00 p.m., m.d.t. July 19, 2002. If requested, we will hold a public hearing on the amendment on July 15, 2002. We will accept requests to speak until 4:00 p.m., m.d.t. on July 5, 2002.

**ADDRESSES:** You should mail or hand deliver written comments and requests to speak at the hearing to Guy Padgett at the address listed below.

You may review copies of the Wyoming program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting the Office of Surface Mining Reclamation and Enforcement's (OSM's) Casper Field Office.

Guy Padgett, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East ''B'' Street, Federal Building, Room 2128, Casper, Wyoming 82601–1918, 307/261–6550, *GPadgett@osmre.gov.*

Dennis Hemmer, Director, Wyoming Department of Environmental Quality, Herschler Building, 122 West 25th Street, Cheyenne, Wyoming 82002, 307/777–7682, *dhemmer@state.wy.us.*

**FOR FURTHER INFORMATION CONTACT:** Guy Padgett, Telephone: 307/261–6550. Internet: *GPadgett@osmre.gov.*

**SUPPLEMENTARY INFORMATION:**



### I. Background on the Wyoming Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Wyoming program on November 26, 1980. You can find background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Wyoming program in the November 26, 1980, **Federal Register** (45 FR 78637). You can also find later actions concerning Wyoming's program and program amendments at 30 CFR 950.12, 950.15, 950.16, and 950.20.

### II. Description of the Proposed Amendment

By letter dated April 30, 2002, Wyoming sent us a proposed amendment to its program (administrative record No. WY–35–01) under SMCRA (30 U.S.C. 1201 *et seq.*). Wyoming sent the amendment in response to a November 7, 1988, letter (administrative record No. WY–35–05) and a February 21, 1990, letter (administrative record No. WY–35–07) that we sent to Wyoming in accordance with 30 CFR 732.17(c), and in response to the required program amendments at 30 CFR 950.16(j, k, n, y, and z), and to include changes made at its own initiative. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

The provisions of Wyoming's Coal Rules that Wyoming proposes to revise are: (1) Chapter 1, Section 2 and Chapter 13, Section 1(a), (b), and (c), definitions, cross-reference, and guidelines on permit revisions; (2) Chapter 4, Section 2(b)(iv), backfilling, grading, contouring, spoil, topsoil, vegetative and organic material to satisfy the required program amendment at 30 CFR 950.16(n); (3) Chapter 11, Sections 1(a), 2(a), 3(b), 3(c) and 4(a), bond and insurance requirements for surface coal mining operations under regulatory programs, intended to satisfy some of the deficiencies identified by OSM in its November 7, 1988, 30 CFR 732 letter to Wyoming; (4) Chapter 12, Section 1(b), review, public participation, and approval or disapproval of permit applications, permit term and conditions, and Chapter 13, Section 1(d)(iv)(D), probable hydrologic consequences assessment revision or update (changes to both Chapters 12 and 13 are intended to satisfy the program deficiency identified at 30 CFR 950.16(y)); (5) Chapter 12, Section 2(d)(iii), bonding and insurance procedures intended to satisfy the program deficiencies (numbered G–1) contained in the February 21, 1990, 30 CFR 732 letter we sent to Wyoming; (6) Chapter 15, Section 7, termination of jurisdiction, intended to satisfy the program deficiency (D–1) we sent Wyoming in a February 21, 1990, 30 CFR 732 letter; (7) Chapter 13, Section 1(d), intended to correct a cross-reference listed as a program deficiency in 30 CFR 950.16(j)[part 2]; and (8) Chapter 13, Section 1(a), concerning alternative methods of permit revision, intended to satisfy the program deficiency listed at 30 CFR 950.16(j)[part 3].

### III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Wyoming program.

*Written Comments*

Send your written or electronic comments to OSM at the address given above. Your comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment

period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Casper Field Office may not be logged in.

*Electronic Comments*

Please submit Internet comments as an ASCII file or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS No. WY–030–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Casper Field Office at 307/261–6555.

*Availability of Comments*

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

*Public Hearing*

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t. on July 5, 2002. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.** We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

*Public Meeting*

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting a part of the administrative record.

## IV. Procedural Determinations

*Executive Order 12630—Takings*

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

*Executive Order 12866—Regulatory Planning and Review*

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

*Executive Order 12988—Civil Justice Reform*

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

*Executive Order 13132—Federalism*

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

*Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy*

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

*National Environmental Policy Act*

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

*Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

**List of Subjects in 30 CFR Part 950**

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 16, 2002.

**Peter A. Rutledge,**

*Acting Regional Director, Western Regional Coordinating Center*

[FR Doc. 02–15485 Filed 6–18–02; 8:45 am]

**BILLING CODE 4310–05–P**

## DEPARTMENT OF THE TREASURY

## Office of Foreign Assets Control

## 31 CFR Part 501

## Rules Governing Availability of Information

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** The Office of Foreign Assets Control (''OFAC'') of the U.S. Department of the Treasury invites public comments on a proposed rule concerning the disclosure of certain civil penalties information. On a periodic basis, not less frequently than quarterly, OFAC intends to make public certain information about civil penalties imposed and informal settlements.

**DATES:** Public comments must be received by OFAC on or before July 19, 2002.

**ADDRESSES:** Comments may be submitted to the Chief of Records, ATTN: Request for Comments, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Alternatively, comments may be submitted via facsimile to the Chief of Records at 202/622–1657 or via OFAC's Web site <*http://www.treas.gov/offices/enforcement/ofac/comment.html*>.

**FOR FURTHER INFORMATION CONTACT:** Chief of Records, tel.: 202/622–2500, or Chief Counsel, tel. 202/622–2410.

**SUPPLEMENTARY INFORMATION:**

### Background

OFAC is committed to making its enforcement activities more transparent to the public. In an effort to achieve this goal, while balancing foreign policy considerations and the requirements of the statutes, Executive Orders, and regulations it administers and enforces, OFAC offers this notice of a proposed rule governing the public availability of certain civil penalties information. OFAC expects that making certain additional information public will promote greater awareness of its enforcement activities and encourage compliance with the economic sanctions programs OFAC administers and enforces under 31 CFR chapter V.

OFAC has already made public certain information pertaining to informal settlements of civil penalties matters in response to a request under the Freedom of Information Act (''FOIA''), 5 U.S.C. 552. Within a given range of dates, the FOIA requester sought, inter alia, the identity of each entity with which a civil penalties matter was settled, the nature of the alleged violation, and the amount of the settlement. OFAC is still in the process of completing its response to this particular FOIA request, but an interim release of documents generated substantial public interest.

Prospectively, OFAC intends to make public the following civil penalties information on a periodic basis, not less frequently than quarterly. In proceedings against an entity that result in either the imposition of a civil monetary penalty or an informal settlement, OFAC plans to release (1) the name of the entity involved, (2) the sanctions program involved, (3) a brief description of the violation or alleged violation, and (4) the amount of the penalty imposed or the amount of the agreed settlement. At this time, OFAC does not plan to release the names of individuals involved in civil penalties matters, but OFAC may decide to do so in the future; we would welcome public comments on the potential disclosure of individual names in response to this notice. For the time being, penalties and informal settlements involving individuals will be included in the periodic release on an aggregate basis. The information concerning civil penalties and informal settlements will be made available to the public through OFAC's Web site <*http://www.treas.gov/offices/enforcement/ofac/index.html*>.

In addition to the names of individuals, there are certain types of information that OFAC does not propose to make public under this rule. These include information relating to the Foreign Narcotics Kingpin Sanctions Regulations, trade secrets and other sensitive commercial or financial information, and information on proceedings that have not yet been completed.

*Civil Penalties Proceedings Under the Kingpin Act.* Section 805(e)(3) of the Foreign Narcotics Kingpin Designation Act (''FNKDA''), 21 U.S.C. 1904(e)(3), provides that a key disclosure provision of FOIA, 5 U.S.C. 552(a)(3), shall not apply to any record or information obtained or generated in the implementation of FNKDA. OFAC has implemented FNKDA through the Foreign Narcotics Kingpin Sanctions Regulations, 31 CFR part 598, which explain that information obtained or created in the implementation of those regulations shall not be disclosed under section 552(a)(3) of FOIA. *See* 31 CFR § 598.802. In recognition of the important policies underlying this provision of FNKDA, OFAC does not plan to make public, under this proposed rule, information from civil penalties proceedings conducted under the Foreign Narcotics Kingpin Sanctions Regulations.

*Trade Secrets and Commercial or Financial Information.* OFAC does not intend to make public any ''trade secrets and commercial or financial information obtained from a person and privileged or confidential,'' within the meaning of section 552(b)(4) of FOIA.

*Pending Proceedings.* As a matter of policy, OFAC does not publicly comment on pending enforcement and civil penalties proceedings. OFAC plans to make public the information described in this proposed rule only

after the conclusion of any such proceedings.

**Electronic Availability**

This document is available as an electronic file on The Federal Bulletin Board the day of publication in the **Federal Register**. By modem, dial 202/512–1387 and type ''/GO FAC,'' or call 202/512–1530 for disk or paper copies. This file is available for downloading without charge in ASCII and Adobe Acrobat7 readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web, Telnet, or FTP protocol is *<fedbbs.access.gpo.gov>*.

This document and additional information concerning the Office of Foreign Assets Control are available from OFAC's Web site *<http://www.treas.gov/offices/enforcement/ofac/index.html>* or via facsimile through OFAC's 24-hour fax-on-demand service, tel: 202/622–0077. Comments on this proposed rule may be submitted electronically via OFAC's Web site *<http://www.treas.gov/offices/enforcement/ofac/comment.html>*.

**Regulatory Flexibility Act, Paperwork Reduction Act, and Executive Order 12866**

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is hereby certified that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule imposes no regulatory burdens on the public and simply announces that OFAC will publicly release certain information about civil penalties imposed and informal settlements. Accordingly, no regulatory flexibility analysis is required.

The Paperwork Reduction Act does not apply because the proposed rule does not impose information collection requirements that would require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq*. A regulatory assessment is not required because this proposed rule is not a ''significant regulatory action'' as defined in Executive Order 12866.

**Request for Comment**

OFAC invites public comments concerning this proposed rule. Comments must be received within thirty (30) days of the publication date of this notice. The address for submitting comments appears near the beginning of this notice. All relevant comments received will be made available to the public on OFAC's Web site *<http://www.treas.gov/offices/enforcement/ofac/index.html>*.

**List of Subjects in 31 CFR Part 501**

Administrative practice and procedure, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, OFAC proposes to amend 31 CFR Part 501 to read as follows:

## PART 501—REPORTING AND PROCEDURES REGULATIONS

### Subpart D—Procedures

Amend § 501.805 by adding paragraph (d) to read as follows:

**§ 501.805 Rules governing availability of information.**

* * * * *

(d) *Certain Civil Penalties Information.* (1) After the conclusion of a civil penalties proceeding that results in either the imposition of a civil monetary penalty or an informal settlement, OFAC shall make available to the public certain information on a periodic basis, not less frequently than quarterly, as follows:

(i) In each such proceeding involving an entity, OFAC shall make available to the public

(A) The name of the entity involved,

(B) The sanctions program involved,

(C) A brief description of the violation or alleged violation, and

(D) The amount of the penalty imposed or the amount of the agreed settlement.

(ii) In such proceedings involving individuals, OFAC shall release on an aggregate basis

(A) The number of penalties imposed and informal settlements reached,

(B) The sanctions programs involved,

(C) A brief description of the violations or alleged violations, and

(D) The amounts of the penalties imposed and the amounts of the agreed settlements.

(iii) On a case-by-case basis, OFAC may release additional information concerning a particular civil penalties proceeding.

(2) The information made available pursuant to paragraph (d)(1) of this section shall not include the following:

(i) The name of any violator or alleged violator who is an individual.

(ii) Records or information obtained or created in the implementation of part 598 of this chapter.

Dated: June 12, 2002.

**R. Richard Newcomb,**

*Director, Office of Foreign Assets Control.*

Approved: June 12, 2002.

**Kenneth Lawson,**

*Assistant Secretary (Enforcement), Department of the Treasury.*

[FR Doc. 02–15377 Filed 6–14–02; 10:19 am]

BILLING CODE 4810–25–P

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 160

**[USCG–2001–11865]**

**RIN 2115–AG35**

## Notification of Arrival in U.S. Ports

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes permanent changes to its notification of arrival and departure requirements for commercial vessels greater than 300 gross tons bound for or departing from ports or places in the United States. We propose to incorporate most of the temporary changes we made following the September 11, 2001, terrorist attacks. We also propose to consolidate the notice of departure and notice of arrival; require electronic submission of cargo manifest information to U.S. Customs Service; and require additional crew and passenger information. The proposed permanent changes would help ensure public safety, security, and the uninterrupted flow of commerce.

**DATES:** Comments and related material must reach the Docket Management Facility on or before August 19, 2002. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before August 19, 2002.

**ADDRESSES:** To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–2001–11865), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the website for the Docket Management System at *http://dms.dot.gov/*.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for this

rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call LTJG Marcus A. Lines, U.S. Coast Guard (G–MP), at 202–267–6854. If you have questions concerning U.S. Customs Service procedures, call Kimberly Nott at 202–927–0042. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, at 202–366–5149.

**SUPPLEMENTARY INFORMATION:**

**Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–2001–11865), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES**; please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

**Public Meeting**

We do not now plan to hold a public meeting. You may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Background and Purpose**

The terrorist attacks of September 2001 killed thousands of people and heightened the need for security checks on all modes of travel, particularly those modes by which foreign nationals and products can enter the country. In the maritime context, extra time is needed for security checks. If the required arrival information is not received early enough, vessels bound for U.S. ports and places could experience delays in entering port.

On October 4, 2001, we published a temporary final rule entitled ''Temporary Requirements for Notification of Arrival in U.S. Ports'' in the **Federal Register** (66 FR 50565). Subsequently, we published two corrections in the **Federal Register** [November 19, 2001 (66 FR 57877) and January 18, 2002 (67 FR 2571)]. The temporary rule increased the submission time for an NOA from 24 to 96 hours prior to arriving at port; required centralized submissions; temporarily suspended exemptions from reporting requirements for some groups of vessels; and required submission of passenger, crew, and cargo information.

Additional rulemakings may be necessary to increase maritime domain awareness or to achieve the goal of a single submission of all Federal Government arrival information requirements.

**Extension of Temporary Final Rule**

The temporary rule was effective until June 15, 2002. On May 30, 2002, we extended the effective period of the temporary rule until September 30, 2002 [67 FR 37682].

**Discussion of Comments**

*General.* During the comment period of the temporary rule, we received eight letters. Each of the eight commenters understood the need to strengthen security efforts and change the requirements for Notices of Arrivals (NOAs). Most of the comments contained suggestions about the process in which we manage and distribute the information reported from vessels.

One comment stated that some Captains of the Port (COTP) requested vessel owners and operators to submit a duplicate of the information already reported to the National Vessel Movement Center (NVMC). The comment recommended that information be reported only once. We agree with this comment. During the early implementation of the temporary rule some instances of duplicated reporting occurred. Those instances were resolved. This proposal would require reporting only to a centralized location.

Some comments also encouraged the Coast Guard to share or distribute NOA information among federal government agencies to limit duplicate submission requirements. We shared these suggestions with the program offices working with other agencies to eliminate or minimize redundant reporting requirements.

One comment encouraged the Coast Guard to state in ''plain language'' exactly what is required of vessel owners. The Coast Guard agrees. We request comments concerning the readability, organization, or presentation of requirements in this proposal. We will incorporate plain language principles into our Final Rule.

*Local issues.* One comment requested that COTPs use information submitted for an ''explosive shipment carrying'' permit to satisfy NOA submission requirements. Another comment complained that it is too difficult to accurately submit a 96-hour advance NOA to the NVMC, without subsequent updates.

These comments both discuss matters which are better addressed by the local COTP. Under § 160.205, these individuals may request a waiver from submitting an NOA report.

*Electronic Submissions.* A few comments suggested the Coast Guard provide electronic submission capabilities for submitting NOAs to the NVMC. Currently, the NVMC can receive electronic submissions in common file formats, such as ASCII text, MS Word documents, and MS Excel spreadsheets. In the ''discussion of proposed rule'' section of this preamble, we seek comments on electronic filing data specifications that would enable automatic processing of NOA data.

**Discussion of Proposed Rule**

This proposed rule would permanently change the notice of arrival (NOA) requirements. Many of the changes we propose to make permanent in this NPRM have been adopted from the temporary rule. This proposal also contains requirements that were not introduced in the temporary rule, and they are discussed in detail in this preamble.

Under 33 CFR part 160, subpart C, owners, agents, masters, operators, or persons in charge of vessels bound for U.S. ports must file an NOA before they enter port. (Persons required to submit reports will hereafter be called ''submitters.'') In this rulemaking, the Coast Guard proposes to:

- Require additional information in NOA reports;
- Require electronic submissions of cargo manifest information to United States Customs Service (USCS);

- Change submission times for NOAs;
- Require submitters to report changes to submitted information;
- Merge the Notice of Departure (NOD) requirements with the NOA requirements;
- Allow consolidated NOA reports for multiple ports;
- Require centralized and electronic submissions;
- Revise exemptions from reporting requirements and
- Update definitions, and make technical corrections in the ISM Code Notice listed in 33 CFR 160.207(d).

*Required elements in NOA reports.* We propose to permanently require the following vessel, cargo, crew, and passenger information be reported. Submitters would identify each destination by listing the names of the receiving facility, the port or place in the U.S., the city, and the state, as well as indicate the location or position of the vessel at the time of reporting. Submitters would provide a general description of cargo aboard the vessel. The description would convey if the vessel were carrying items such as grain, oil, containers, etc. Submitters would provide the full name, date of birth, nationality, passport number or mariner's documentation number, and position or duty on the vessel, as applicable, for each crewmember and passenger.

In addition to making those requirements permanent, we also propose adding requirements for submitters to identify where each crewmember and passenger embarked. Submitters would provide any aliases, nickname, maiden name, professional, or stage name for each crewmember. This new information would allow us to better identify crewmembers entering our ports.

*Cargo Manifest Information.* The Coast Guard proposes requiring a new information requirement as part of the NOA submission. The new requirement is the vessel's cargo manifest information described in 19 CFR 4.7(a). This requirement is in addition to the one in § 160.207(b)(14), ''general description of the cargo'', and would consist of a completed U.S. Customs Service form (Customs Form 1302). Cargo manifest information is necessary to assess cargoes entering U.S. ports for potential threats to the national security and appropriately respond to those threats.

The Coast Guard does not have the capability at its National Vessel Movement Center to receive and process the cargo manifest information. The U.S. Customs Service (USCS), however, does have an existing capability to receive, process, and share the information with Coast Guard, provided the information is submitted to USCS 96 hours before the vessel arrives at a U.S. port and provided it is submitted electronically to the USCS Sea Automated Manifest System (AMS). A single electronic submission of the cargo manifest information (Customs Form 1302) to USCS would satisfy the requirements of both agencies for submission of that data.

The Coast Guard proposes that the cargo manifest information be submitted electronically to USCS through AMS, while all other required NOA information would continue to be submitted to NVMC.

The Coast Guard requests comments on whether all vessels should be required to submit their cargo manifest information via electronic means utilizing Sea AMS, or should they be allowed to submit the cargo manifest by some other means?

To transmit information electronically, a submitter will begin by, first, calling 703–921–7501 or sending a letter to the following address requesting participation in the Sea AMS program: U.S. Customs Service, Client Representative Branch, 7501 Boston Blvd. Rm. 211, Springfield, VA 22153. Upon receiving an inquiry, Customs will send a respondent checklist to the party for completion.

Once the checklist is completed and returned to Customs, a USCS client representative will be assigned to work with the submitter. This representative will serve as a technical advisor establishing a Sea AMS interface. Establishing an interface for participation can require as little as two weeks or up to several months, depending on the particular method chosen.

AMS will allow participants to transmit manifest information electronically 96 hours prior to vessel arrival. There are four methods of transmitting data to AMS: (1) Establish a direct connection with Customs; (2) use a service provider; (3) use a port authority; and (4) purchase software from a vendor. For general information related to AMS, visit their Automated Commercial System website at *http://www.customs.treas.gov/imp-exp2/auto-sys/ams.htm.*

Of vessels already required to submit a ''cargo manifest'' to USCS, approximately 95 percent submit the manifest information electronically. The new Coast Guard requirement only affects these vessels by increasing the time by which Customs Form 1302 needs to be submitted (from 48 hours to 96 hours). For vessels not subject to USCS requirements, meaning vessels on a domestic voyage in the United States, the requirement to submit cargo manifest information electronically would not apply. This rulemaking would not create an exception to or exemption from any other applicable U.S. Customs regulations.

*NOA submission times.* In the temporary rule, we increased the times of submitting an arrival notice. We propose to make permanent the submission times established in our temporary rule. The following chart provides a summary of the proposed submission times.

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| Vessel Type & Voyage Time | Times For Submission | | | | Changes to Submission | |
|---|---|---|---|---|---|---|
| | NOA | | NOD | | NOA | |
| | Old | New | Old | New | Old | New |
| Vessels greater than 300 GT with a voyage time of 96 hours or greater | 24 hours | At least 96 hours before entering each port of destination | None | Incorporated into the NOA report | None | As soon as practicable but no later than 24 hours before entering the port |
| Vessels greater than 300 GT voyage time less than 96 hours | 24 hours | Before departing but no less than 24 hours before entering each port of destination | None | Incorporated into the NOA report | None | As soon as practicable but no later than 24 hours before entering the port |
| Vessels greater than 300 GT with a voyage time of less than 24 hours | 24 hours | Before departing the port of departure | At least 24 hours unless notification was made within 2 hours of arrival | Incorporated into the NOA report | None | As soon as practicable but no later than 12 hours before entering port |
| All vessels carrying dangerous cargo, except barges, with a voyage time of 96 hours or greater | 24 hours | At least 96 hours before entering each port of destination | At least 24 hours unless notification was made within 2 hours of arrival | Incorporated into the NOA report | None | As soon as practicable but no later than 24 hours before entering the port |
| All vessels carrying dangerous cargo except barges with a voyage time of less than 96 hours | 24 hours | Before departing but no less than 24 hours before entering each port of destination | At least 24 hours unless notification was made within 2 hours of arrival | Incorporated into the NOA report | None | As soon as practicable but no later than 24 hours before entering the port |
| All vessels carrying dangerous cargo except barges with a voyage time of less than 24 hours | 24 hours | Before departing the port of departure | At least 24 hours unless notification was made within 2 hours of arrival | Incorporated into the NOA report | None | As soon as practicable but no later than 12 hours before entering port |
| All barges carrying certain dangerous cargo | 4 hours | At least 12 hours before entering each port of destination | At least 4 hours before departing, unless notification was made within 2 hours of arrival | Incorporated into the NOA report | None | As soon as practicable but no later than 12 hours before entering port |

BILLING CODE 4910-15-P

*Reporting changes to submitted NOA information.* The temporary rule established procedures for reporting changes to the information submitted on an NOA. We propose to make the requirements permanent by adding a new section, § 160.214 ''Requirements for submitting changes to NOA reports''. Changes to NOAs would be reported as soon as practical but no less than 12 or 24 hours prior to entering port depending on vessel and voyage characteristics. When reporting changes, a complete resubmission of an entire report would not be necessary. See Chart 1, above, for the proposed submission times applicable to reporting changes.

*Notice of Departure (NOD).* The Coast Guard proposes to combine all of the information elements of a Notification of Departure (NOD) and an NOA into a single NOA report. Both notices contained duplicate reporting elements, although the NOD required the submission of one additional element. We propose to include the additional element (the estimated date and time of departure) in the NOA report, thereby, eliminating reporting the same information twice and reducing the reporting burden.

*Multiple Ports.* Submitters would also be allowed to file a single NOA report listing all consecutive U.S. destinations during the voyage, along with estimated arrival and departure dates and times for each port.

*Require centralized submissions.* As established in the temporary rule, we propose that all NOA reports continue to go to the NVMC instead of to individual Captains of the Port (COTPs). Foreign vessels of 300 gross tons or less operating in the Seventh Coast Guard District would continue to submit NOA reports to cognizant COTPs.

Vessels transiting inbound on the Saint Lawrence Seaways would be able to meet the NOA reporting requirements by continuing to fax their submissions to the Saint Lawrence Seaway Development Corporation and the Saint Lawrence Seaway Management Corporation of Canada. The Canadian offices would forward each vessel's NOA report to the Coast Guard.

We require the owner, authorized agent, master, operator, or person in charge of a vessel to report a vessel's arrival to the NVMC. We are considering accepting NOA submissions from only the vessel owner and operator, or from only the owner, operator, and authorized agent (including shipping agents and marine exchanges) of the vessel. We specifically request comments on how either of these changes would affect the method of submission you currently use.

*Electronic Submissions.* We are considering developing the capability to receive and automatically process NOA data that is submitted in a specified electronic file format. At this time, we are requesting comments regarding electronic submittals. If electronic submission capabilities are improved and in place when a final rule is published, it would be the preferred or possibly the required method for filing NOA reports. The following six questions can be used as a guide; however, comments need not be limited to answering the questions:

1. What are your information security concerns regarding electronic submissions of NOA?

2. Would you allow the Coast Guard to forward all or parts of your NOA information to entities such as marine exchanges or port authorities as a value added service to facilitate information sharing at the port level?

3. If the Coast Guard produced a desktop application that allowed you to create, manage, and automatically submit NOA via email, would you use it?

4. Which electronic means for submitting NOAs would you prefer? (e.g.: HTML, SMTP, FTP)

5. What are your information security concerns if the Coast Guard allowed you to send your NOA to an FTP (File Transfer Protocol) server or web server in the public domain?

6. If the Coast Guard provided an XML (Extensible markup language) data specification for NOA, would you be able to generate XML documents and submit them via email or other means?

*Exemptions from NOA reporting.* The temporary final rule suspended reporting exemptions for vessels complying with Automated Mutual Assistance Vessel Rescue System (AMVER), certain vessels operating solely on the Great Lakes, and vessels operating on a regularly scheduled route. We propose to permanently remove these exemptions.

Under this proposal, U.S. vessels, except tank vessels, operating solely between U.S. ports on the Great Lakes would be exempt from reporting. Canadian vessels, U.S. tank vessels coming from a foreign port, and vessels complying with AMVER would be required to submit an NOA report. Vessels operating on a regularly scheduled route would be required to submit an NOA report.

Additionally, we propose revising the exemption from reporting for each barge. At the moment, each barge carrying cargoes other than certain dangerous cargoes is exempt from NOA reporting. In this rule, we would limit this exemption to barges coming from a U.S. port. This change would require barges coming from a foreign port to submit an NOA.

*Other changes.* We propose permanently adding definitions for ''crewmember'', ''nationality'', and ''persons in addition to crewmembers''. We would also revise the definition for ''certain dangerous cargo'' to conform to language used by the Research and Special Programs Administration (RSPA) in some Division 1.5 materials and add UN hazardous class division numbers.

**Regulatory Evaluation**

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. We present this Regulatory Evaluation for the purposes of information. A detailed Assessment is available in the docket as indicated under **ADDRESSES.** A summary of the Assessment follows:

*Assessment.* The regulatory baseline for this rule is the NOA and NOD reporting requirements in 33 CFR part 160 that are proposed to be amended by this rulemaking. At the present, the requirements of part 160 that we propose to amend are temporarily suspended. During the suspension period of these requirements there has been a temporary final rule NOA and NOD reporting in place since October 4, 2001. The effect of the temporary final rule ends on September 30, 2002. The temporary reporting requirements are not addressed in this analysis. This means that the cost of the proposed rule is estimated as the incremental expenditure required to meet the provisions of the proposed rule in absence of the temporary rule published October 4, 2001.

The cost for complying with the proposed rule will differ depending on the type of vessel submitting the report. Owners and operators of non-AMVER/non-Great Lakes vessels will have to submit lists of the crew and persons in

addition to the crew (information they already have to submit to INS). Additionally, these vessels must provide detail on the persons aboard the vessel (e.g. port where embarked, aliases). Owners and operators of AMVER and Great Lakes vessels may complete the INS forms (which they did not have to provide previously), the crew lists, and the crew detail.

The cost of the proposed rule to industry is presented below based on the average number of annual arrivals for 1998 and 1999.

ANNUAL COST AND BENEFIT OF THE PROPOSED RULE

[2002 Dollars]

| NOA report | Arrivals | Cost per arrival | Annual cost |
|---|---|---|---|
| Non-AMVER/Non-Great Lakes | 63,286 | $95.17 | $6,022,715 |
| AMVER | 4,040 | 141.75 | 572,603 |
| Great Lakes | 813 | 141.75 | 115,243 |
| Totals | | | 6,710,561 |

Detail may not calculate to total due to independent rounding.

As shown, the proposed rule is estimated to cost $6.7 million annually. Over the next 10 years, the Present Value (PV) cost of the proposed rule is $50.4 million (2002–2011, 7 percent discount rate, 2002 dollars).

The non-quantifiable benefit of the proposed rule, would be—

- Providing relevant information about an applicable vessel's cargo, crewmembers, and passengers as well as a threat it may pose; and
- Providing more time to evaluate, analyze, and respond to the information collected.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain how and why you think it qualifies and to what degree this rule would economically affect it.

**Assistance for Small Entities**

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

**Collection of Information**

This proposed rule would call for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection. The new collection of information estimate is based on the current collection, which accounts for the temporary rule. The temporary changes will be in effect until September 30, 2002.

*Title:* Advance Notice of Vessel Arrival and Departure.

*OMB Control Number:* 2115–0557.

*Summary of the Collection of Information:* The Coast Guard requires pre-arrival messages from any vessel entering a port or place in the United States. This rule will amend 33 CFR part 160 to permanently require:

- Earlier receipt of the notice of arrival—96 hours instead of 24 hours—from vessels currently required to provide advance notification of arrival;
- Submission of NOA reports to a central clearinghouse, the National Vessel Movement Center;
- Removal of the current exemption from notice of arrival reporting requirements for vessels operating in compliance with the Automated Mutual Assistance Vessel Rescue System, some vessels operating on the Great Lakes, and vessels on scheduled routes; and
- Additional information about crewmembers, passengers, cargoes on board the vessel to be provided as items in the notice of arrival report.

*Need for Information:* To ensure port safety and security and to ensure the uninterrupted flow of commerce, the Coast Guard must permanently change regulations relating to the Notifications of Arrival requirements.

*Proposed Use of Information:* This information is required to control vessel traffic, develop contingency plans, enforce regulations, and enhance maritime security.

*Description of the Respondents:* Respondents are owners and operators of vessels that arrive at or depart from a port or place in the United States after departing from foreign ports.

*Number of Respondents:* The existing OMB-approved collection number of respondents is 10,367 (respondents are owners/operators of the vessels calling on U.S. ports annually). This proposed rule will not increase the number of respondents.

*Frequency of Response:* Owners/operators of vessels making calls in U.S. ports will submit NOA reports as necessary. The existing OMB-approved collection number of responses is 136,278 (responses are arrivals at and departures from U.S. ports). This proposed rule will decrease the number of responses by 68,139 (separate Notification of Departure reports are no longer required) for a net total of 68,139 responses.

*Burden of Response:* The existing OMB-approved collection burden of response is approximately 15 minutes (0.250 hours) (burden of response is the time required to complete the paperwork requirements of the rule for a single response). This proposed rule will increase the burden of response by an average of 60 minutes (1.000 hour) and decrease the burden of response by 1 minute (0.017 hours) for a net total of 74 minutes (1.233 hours).

*Estimate of Total Annual Burden:* The existing OMB-approved collection total annual burden is 39,037 hours (total annual burden is the time required to complete the paperwork requirements of the rule for all responses). This proposed rule will increase the total annual burden by 136,278 hours and decrease total annual burden by 1,136 hours for a net total of 174,179 hours.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this proposed rule to OMB for its review of the collection of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES,** by the date under **DATES.**

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the requirements for this collection of information become effective, we will publish notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

**Federalism**

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

**Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

**Taking of Private Property**

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

**Civil Justice Reform**

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

**Protection of Children**

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

**Indian Tribal Governments**

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

**Energy Effects**

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

**Environment**

We have considered the environmental impact of this proposed rule and concluded that under figures 2–1, paragraph (34)(a), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This rulemaking would change the requirements in the notification of arrival regulations. They would be procedural in nature and therefore are categorically excluded. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

**List of Subjects in 33 CFR Part 160**

Administrative practice and procedure, Harbors, Hazardous materials transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 160 as follows:

## PART 160—PORTS AND WATERWAYS SAFETY—GENERAL

### Subpart C—Notifications of Arrival, Departures, Hazardous Conditions, and Certain Dangerous Cargoes

1. The authority citation for part 160 is amended to read as follows:

**Authority:** 33 U.S.C. 1223, 1226, 1231; 49 CFR 1.46.

2. Revise § 160.201 to read as follows:

**§ 160.201 Applicability and exceptions to applicability.**

(a) This subpart prescribes notification requirements for U.S. and foreign vessels bound for or departing from ports or places in the United States.

(b) This subpart does not apply to recreational vessels under 46 U.S.C.

4301 *et seq*. and, except § 160.215 (Notice of Hazardous Conditions), does not apply to:

(1) Passenger and supply vessels when they are employed in the exploration for or in the removal of oil, gas, or mineral resources on the continental shelf; and

(2) Oil Spill Recovery Vessels (OSRVs) when engaged in actual spill response operations or during spill response exercises.

(c) Section 160.207 does not apply to the following:

(1) Each vessel of 300 gross tons or less, except a foreign vessel of 300 gross tons or less entering any port or place in the Seventh Coast Guard District as described by 3.35–1(b) of this chapter.

(2) Each vessel operating exclusively within a Captain of the Port zone.

(3) [Reserved]

(4) Each vessel arriving at a port or place under force majeure.

(5) [Reserved]

(6) Each barge operating solely between ports or places in the United States.

(7) Each public vessel.

(8) U.S. vessels, except tank vessels, operating solely between ports or places in the United States on the Great Lakes.

(d) Sections 160.207(b)(17) and 160.211(d)(21) do not apply to vessels on domestic voyages.

(e) Sections 160.207 and 160.211 apply to each vessel upon the waters of the Mississippi River between its mouth and mile 235, Lower Mississippi River, Above Head of Passes. Sections 160.207 and 160.211 do not apply to each vessel upon the waters of the Mississippi River between its sources and mile 235, Above Head of Passes, and all the tributaries emptying thereinto and their tributaries, and that part of the Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway, and the Red River of the South.

3. In § 160.203, revise the definitions of ''Certain dangerous cargo'' and ''Public vessel'', and add in alphabetic order definitions for ''Crewmember'', ''Nationality'', and ''Persons in addition to crewmembers'' to read as follows:

**§ 160.203 Definitions.**

* * * * *

*Certain dangerous cargo* includes any of the following:

(a) Division 1.1 or 1.2 (explosive) materials, as defined in 49 CFR 173.50.

(b) Division 5.1 oxidizing materials or Division 1.5 blasting agents for which a permit is required under 49 CFR 176.415.

(c) Division 2.3 gas that is a material poisonous by inhalation, as defined in 49 CFR 171.8, and that is in a quantity in excess of 1 metric ton per vessel.

(d) Division 6.1 liquid that is a material poisonous by inhalation, as defined in 49 CFR 171.8, and that is in a bulk packaging, or that is in a quantity in excess of 20 metric tons per vessel when not in a bulk packaging.

(e) Division 2.1 flammable gas that is in a quantity in excess of 20 metric tons per vessel.

(f) Division 4.2 spontaneously combustible material assigned to packing group I, that is in a quantity in excess of 20 metric tons per vessel.

(g) Division 4.3 dangerous when wet material that is in a quantity in excess of 20 metric tons per vessel.

(h) Class 7, highway route controlled quantity radioactive material, or fissile material, controlled shipment, as defined in 49 CFR 173.403.

(i) Each cargo under Table 1 of 46 CFR Part 153 when carried in bulk.

(j) Each cargo under Table 4 of 46 CFR Part 154 when carried in bulk.

(k) Each cargo under Table 151.05 of 46 CFR Part 151 when carried in bulk.

(l) Ammonium nitrate or ammonium nitrate fertilizers when carried in bulk.

* * * * *

*Public Vessel* means a vessel that is owned or demise-(bareboat) chartered by the government of the United States, by a State or local government, or by the government of a foreign country and that is not engaged in commercial service, including a vessel under Military Sealift Command control or charter.

* * * * *

*Crewmember* means all persons carried on board the vessel to provide navigation and maintenance of the vessel, its machinery, systems, and arrangements essential for propulsion and safe navigation or to provide services for other persons on board.

* * * * *

*Nationality* means the state (nation) in which a person is a citizen or to which a person owes permanent allegiance.

* * * * *

*Persons in addition to crewmembers* means any person onboard the vessel, including passengers, who are not included on the list of crewmembers.

* * * * *

4. Add § 160.204 to read as follows:

**§ 160.204 Submission of notice of arrival (NOA) reports.**

(a) Except as provided in paragraphs (c) and (d) of this section, all vessels required to report notice of arrival information in §§ 160.207(b)(1) through (16) or §§ 160.211(d)(1) through (20) must submit the notice to the National Vessel Movement Center (NVMC), United States Coast Guard, 408 Coast Guard Drive, Kearneysville, WV, 25430, by:

(1) Telephone at 1–800–708–9823;

(2) Fax at 1–800–547–8724; or

(3) E-mail at *SANS@NVMC.USCG.gov*.

**Note:** Information about the National Vessel Movement Center is available on its website at *http://www.nvmc.uscg.gov/*.

(b)(1) The notice of arrival information required by §§ 160.207(b)(17) or 160.211(d)(21) must be submitted electronically to the United States Customs Service's (USCS) Sea Automated Manifest System (AMS) by one of the following methods and in accordance with 19 CFR 4.7(a):

(i) By Direct Connection with USCS or by purchasing the proper software; or

(ii) Using a Service Provider or a Port Authority.

(2) To become a participant in Sea AMS, submitters must provide a letter of intent prior to first submission.

(c) Those vessels 300 or less gross tons operating in the Seventh Coast Guard District required by § 160.207 or § 160.211 to report notice of arrival and departure information must submit the notice to the cognizant Captain of the Port (COTP).

(d) Those vessels transiting the Saint Lawrence Seaway inbound, bound for a port or place in the United States, may meet the submission requirements of paragraph (a) of this section by submitting the required information to the Saint Lawrence Seaway Development Corporation and the Saint Lawrence Seaway Management Corporation of Canada by Fax at 315–764–3250 or at 613–932–5240.

5. Revise § 160.207 to read as follows:

**§ 160.207 Notice of arrival: Vessels bound for ports or places in the United States.**

(a) The owner, agent, master, operator, or person in charge of a vessel on a voyage of:

(1) 96 hours or more must submit the information under paragraph (b) of this section at least 96 hours before entering the port or place of destination;

(2) Less than 96 hours but not less than 24 hours must submit the information under paragraph (b) of this section prior to departing the port or place of departure, but not less than 24 hours before entering the port or place of destination; or

(3) Less than 24 hours must submit the information in paragraph (b) of this section prior to departing the port or place of departure.

(b) Vessels required to submit a NOA report under paragraph (a) of this section must include the following information in the report:

(1) Name of the vessel;
(2) Country of registry of the vessel;
(3) Call sign of the vessel;
(4) International Maritime Organization (IMO) international number or, if the vessel does not have an assigned IMO international number, the official number of the vessel;
(5) Name of the registered owner of the vessel;
(6) Name of the operator of the vessel;
(7) Name of the classification society of the vessel;
(8) Provide the following for the last five ports or places visited —
(i) The name of each port; and
(ii) The dates of arrival and departure for each port listed;
(9) For each destination list the names of the receiving facility, the port or place in the United States, the city, and state;
(10) Estimated date and time of arrival at each port or place listed;
(11) Estimated date and time of departure from each port or place listed;
(12) Location (port or place and country) or position (latitude and longitude) of the vessel at the time of reporting;
(13) Name and telephone number of a 24-hour point of contact for each port included in the notice of arrival;
(14) General description of cargo onboard the vessel (e.g.: grain, container, oil, etc.);
(15) A list of crewmembers onboard the vessel. The list must include the following information for each person:
(i) Full name;
(ii) Any other name including alias, nickname, maiden name, professional or stage name by which each individual has been known;
(iii) Date of birth;
(iv) Nationality;
(v) Passport number or mariners document number (type of identification and number);
(vi) Position or duties on the vessel; and
(vii) Where the crewmember embarked (list port or place and country);
(16) A list of persons in addition to the crew onboard the vessel. The list must include the following information for each person:
(i) Full name;
(ii) Date of birth;
(iii) Nationality;
(iv) Passport number; and
(v) Where the person embarked; and
(17) Cargo Declaration (Customs Form 1302) as described in 19 CFR 4.7(a).
(c) You may submit a copy of INS Form I–418 to satisfy the requirements of paragraphs (b)(15)(i), (b)(15)(iii) through (vi), and (b)(16) of this section.
(d) International Safety Management (ISM) Code (Chapter IX of SOLAS) Notice. If you are the owner, agent, master, operator, or person in charge of a passenger vessel carrying more than 12 passengers and engaged on a foreign voyage to the United States or a tank vessel, bulk freight vessel, high speed freight vessel, other type of freight vessel, or a self propelled mobile offshore drilling unit that is 500 gross tons or more and engaged on a foreign voyage to the United States, you must provide the ISM Code notice described in paragraph (e) of this section.
(e) ISM Code notice includes the following:
(1) The date of issuance for the company's Document of Compliance certificate that covers the vessel.
(2) The date of issuance for the vessel's Safety Management Certificate, and,
(3) The name of the Flag Administration, or the recognized organization(s) representing the vessel flag administration, that issued those certificates.
(f) Any vessel planning to enter two or more consecutive ports or places in the United States during a single voyage may submit one consolidated Notification of Arrival at least 96 hours before entering the first port or place of destination. The consolidated notice must include the port name and estimated arrival date for each destination of the voyage. Any vessel submitting a consolidated notice under this section must still meet the requirements of § 160.214 of this part concerning changes to required information.

6. Revise § 160.211 to read as follows:

**§ 160.211 Notice of arrival: Vessels carrying certain dangerous cargo.**

(a) The owner, agent, master, operator, or person in charge of a vessel, other than a barge, carrying certain dangerous cargo and bound for a port or place in the United States that is:
(1) 96 hours or more away from the vessel's port of destination must report the information in paragraph (d) of this section at least 96 hours before entering the port or place of destination;
(2) Less than 96 hours but not less than 24 hours away from the vessel's port of destination must report the information in paragraph (d) of this section prior to departing the port or place of departure, but not less than 24 hours before entering the port or place of destination; or
(3) Less than 24 hours away from the vessel's port of destination must report the information in paragraph (d) of this section prior to departing the port or place of departure.
(b) The owner, agent, master, operator, or person in charge of a barge carrying certain dangerous cargo, that is:
(1) 24 hours or greater away from the vessel's port of destination must report the information required in paragraphs (d)(1) through (d)(3) and (d)(7) through (d)(20) of this section at least 12 hours before entering that port or place; or
(2) Less than 24 hours away from the vessel's port of destination must report the information required in paragraphs (d)(1) through (d)(3) and (d)(7) through (d)(20) of this section prior to departing the port or place of departure.
(c) A vessel submitting a notice of arrival under this section satisfies the notice requirements under § 160.207.
(d) The following information must be submitted as prescribed by § 160.204:
(1) Name of the vessel;
(2) Country of registry of the vessel;
(3) Call sign of the vessel;
(4) International Maritime Organization (IMO) international number or, if the vessel does not have an assigned IMO international number, the official number of the vessel;
(5) Name of the registered owner of the vessel;
(6) Name of the operator of the vessel;
(7) Name of the classification society of the vessel;
(8) Provide the following for the last five ports or places visited—
(i) The name of each port; and
(ii) The dates of arrival and departure for each port listed;
(9) For each destination list the names of the receiving facility, the port or place in the United States, the city, and state;
(10) Estimated date and time of arrival at each port or place listed;
(11) Estimated date and time of departure from each port or place listed;
(12) Location (port or place and country) or position (latitude and longitude) of the vessel at the time of reporting;
(13) Name and telephone number of a 24-hour point of contact for each port included in the notice of arrival;
(14) Name of each of the certain dangerous cargoes carried, including cargo UN number, if applicable;
(15) Amount of each of the certain dangerous cargoes carried;
(16) Stowage location of each of the certain dangerous cargoes carried;
(17) General description of cargo, other than dangerous cargoes, onboard the vessel;
(18) Operational condition of the equipment under § 164.35 of this chapter;

(19) A list of crewmembers onboard the vessel. The list must include the following information for each person:

(i) Full name;

(ii) Any other name including alias, nickname, maiden name, professional or stage name by which each individual has been known;

(iii) Date of birth;

(iv) Nationality;

(v) Passport number or mariners document number (type of identification and number);

(vi) Position or duties on the vessel; and

(vii) Where the crewmember embarked (list port or place and country);

(20) A list of persons in addition to the crew onboard the vessel. The list must include the following information for each person:

(i) Full name;

(ii) Date of birth;

(iii) Nationality;

(iv) Passport number; and

(v) Where the person embarked; and

(21) Cargo Declaration (Customs Form 1302) as described in 19 CFR 4.7(a).

(e) You may submit a copy of INS Form I–418 to meet the requirements of paragraphs (d)(19)(i), (d)(19)(iii) through (vi), and (d)(20) of this section.

(f) Any vessel planning to enter two or more consecutive ports or places in the United States during a single voyage may submit one consolidated Notification of Arrival at least 96 hours before entering the first U.S. port or place of destination. The consolidated notice must include the port name and estimated arrival date for each destination of the voyage. Any vessel submitting a consolidated notice under this section must still meet the requirements of § 160.214 of this part concerning changes to required information.

**§ 160.213 [Removed and Reserved]**

7. Remove § 160.213.

8. Add § 160.214 to read as follows:

**§ 160.214 Requirements for submitting changes to notice of arrival reports.**

(a) The owner, agent, master, operator, or person in charge of a vessel, other than a barge, that is:

(1) 96 hours or more away from the vessel's port of destination must report the information in paragraph (d) of this section as soon as practicable but not less than 24 hours before entering the port of destination;

(2) Less than 96 hours but not less than 24 hours away from the vessel's port of destination must report the information in paragraph (d) of this section as soon as practicable but not less than 24 hours before entering the port of destination; or

(3) Less than 24 hours away from the vessel's port of destination must report the information in paragraph (d) of this section as soon as practicable but no less than 12 hours before entering the port of destination.

(b) The owner, agent, master, operator, or person in charge of a barge carrying certain dangerous cargo must report the information in paragraph (d) of this section as soon as practicable but not less than 12 hours before entering the port of destination;

(c) The owner, agent, master, operator, or person in charge of a vessel, other than a barge, carrying certain dangerous cargo and bound for a port or place in the United States that is less than 24 hours away from the vessel's port of destination must report the information in paragraph (d) of this section as soon as practicable but not less than 12 hours before entering the port of destination.

(d) Each owner, agent, master, operator, or person in charge of a vessel required to report a notice of arrival under §§ 160.207 and 160.211 of this part must submit a notice of change as detailed in paragraphs (a) and (b) of this section if any of the required notice of arrival information has changed, except that:

(1) Changes in arrival or departure time that are less than six (6) hours need not be reported; and

(2) Changes in vessel position need only be reported when an update is otherwise required.

(e) When reporting changes do not resubmit the entire NOA report, only report—

(1) Specific items to be corrected in the submitted NOA report; and

(2) Include the new location or position of the vessel at the time of reporting changes.

Dated: June 13, 2002.

**Paul J. Pluta,**

*Rear Admiral, U.S. Coast Guard, Assistant, Commandant for Marine Safety, Security and Environmental Protection.*

[FR Doc. 02–15432 Filed 6–14–02; 1:38 pm]

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Parts 9, 122, 123, 124, and 125

[FRL–7231–1]

RIN 2040–AD62

## Extension of Comment Period for National Pollutant Discharge Elimination System; Regulations Addressing Cooling Water Intake Structures for Phase II Existing Facilities; Proposed Rule

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** EPA is extending the comment period for the proposed rule addressing cooling water intake structures for Phase II existing facilities. The proposed rule was published in the **Federal Register** on April 9, 2002 (67 FR 17122). The comment period for the proposed rule is extended by 30 days for a total of 120 days, ending on August 7, 2002.

**DATES:** Comments on the proposed rule will be accepted through August 7, 2002.

**ADDRESSES:** Send written comments to: Cooling Water Intake Structure (Existing Facilities) Proposed Rule Comment Clerk-W–00–32, Water Docket, Mail Code 4101, EPA, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Comments delivered in person (including overnight mail) should be submitted to the Cooling Water Intake Structure (Existing Facilities) Proposed Rule Comment Clerk-W–00–32, Water Docket, Room EB 57, 401 M Street, SW., Washington DC 20460. Please submit any references cited in your comments. Submit an original and three copies of your written comments and enclosures. No facsimiles (faxes) will be accepted. In addition to accepting hard-copy written comments, EPA will also accept comments submitted electronically. Electronic comments must be submitted as a Word Perfect 5/6/7/8 or ASCII file and must be submitted to *ow-docket@epa.gov.*

**FOR FURTHER INFORMATION CONTACT:** For additional technical information, contact Debbi D. Hart at (202) 566–6379 or Deborah G. Nagle at (202) 566–1063. For additional economic information, contact Lynne Tudor at (202) 566–1043.

**SUPPLEMENTARY INFORMATION:** On April 9, 2002, EPA published proposed regulations addressing cooling water intake structures for existing facilities in the **Federal Register** for public review

and comment (67 FR 17122). The proposal provided for a 90-day comment period, which was scheduled to end on July 8, 2002.

EPA received multiple requests from the potentially regulated community to extend the comment period. In most cases, a general extension of 60 days was requested. In one case, a 30-day comment extension was requested for the proposed rule with an additional 30 days required to prepare comments related to the case studies, economic and benefits assessment, and related portions of the proposed rule. These requests argued that an extension of the comment period was necessary because of the large volume of material associated with the proposed rule, including the extensive rulemaking record; the complexity of the proposal and the need for coordination among multidisciplinary areas of expertise (e.g., economic, scientific, engineering, and legal); the inclusion in the proposal of several innovative concepts, such as trading and mitigation through restoration measures, that require time and effort to comprehend and evaluate; difficulty in accessing several electronic documents contained in the rulemaking record; the amount of time needed to copy all written materials in the record for offsite review; difficulty in ascertaining how various aspects of the record support the proposal; and numerous information requests made by EPA within the proposal (i.e., 88 separate requests for comment solicited from the regulated community). Parties requesting an extension argued that the 90-day comment period was insufficient to fully understand the entire content of the proposal, verify data and calculations associated with the proposal (especially impingement and entrainment losses and correlated benefits), and prepare written comments.

In response to these requests, EPA is extending the comment period by 30 days, through August 7, 2002, because of the complexity and the range of issues raised in the proposal. EPA made copies of the proposed rule and preamble available to potentially regulated industries, States, environmental groups, and the public on March 6, 2002, 34 days prior to publication of the proposed rule and preamble in the **Federal Register**. EPA believes that 120 days is a sufficient period of time for comment on the proposed rule, especially in light of the prepublication availability of the proposed rule and preamble.

Dated: June 7, 2002.

**Diane C. Regas,**

*Acting Assistant Administrator for Water.*

[FR Doc. 02–15456 Filed 6–18–02; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

**RIN 1018–AG93**

## Endangered and Threatened Wildlife and Plants; Critical Habitat Designation for *Sidalcea keckii* (Keck's checkermallow)

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), propose to designate critical habitat pursuant to the Endangered Species Act of 1973 as amended (Act), for *Sidalcea keckii* (Keck's checkermallow). Approximately 438 hectares (ha) (1,085 acres (ac)) are proposed in California, consisting of three separate units: one unit in Fresno County, 206 ha (510 ac), and two units in Tulare County, one of 86 ha (213 ac) and one of 146 ha (362 ac).

Critical habitat receives protection from destruction or adverse modification through required consultation under section 7 of the Act with regard to actions carried out, funded, or authorized by a Federal agency. Section 4 of the Act requires us to consider economic and other relevant impacts when specifying any particular area as critical habitat.

We solicit data and comments from the public on all aspects of this proposal, including data on economic and other impacts of the designation, and our approaches for handling any future habitat conservation plans. We may revise this proposal prior to final designation to incorporate or address new information received during the comment period.

**DATES:** We will accept comments until August 19, 2002. Public hearing requests must be received by August 5, 2002.

**ADDRESSES:** If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods:

You may submit written comments and information or hand-deliver comments to the Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W–2605, Sacramento, CA 95825.

You may also send comments by electronic mail (e-mail) to *fw1kecks_checkermallow@fws.gov.* See the Public Comments Solicited section below for file format and other information about electronic filing.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Glen Tarr or Susan Moore, U.S. Fish and Wildlife Service (telephone 916/414–6600; facsimile 916/414–6710).

**SUPPLEMENTARY INFORMATION:**

### Background

*Sidalcea keckii* (Keck's checkermallow) is an annual herb of the mallow family (Malvaceae). The species grows 15 to 33 centimeters (cm) (6 to 13 inches (in)) tall, with slender, erect stems that are hairy along their entire length. Leaves towards the base of the plant have a roughly circular outline, and seven to nine shallow lobes arranged somewhat like the fingers of a hand (palmate). Leaves farther up the plant have fewer lobes which are more deeply divided. Both types of leaves also have irregular serrations at their margins forming ''teeth.'' The plant flowers in April and early May, producing five petalled flowers that are either solid pink or pink with a maroon center. Petals are 1 to 2 cm (0.4 to 0.8 in) long, and are often shallowly notched at their outermost margins. Below the petals is a smaller calyx (cuplike structure) formed by five narrow green sepals (modified leaves). Each sepal is 8 to 11 millimeters (mm) (0.3 to 0.4 in) long, and has a maroon line running down its center. Below the calyx are bracts (modified leaflike structures), which are much shorter than the sepals and are either undivided or divided into two threadlike lobes. *Sidalcea keckii* is distinguished from other members of its genus by the maroon lines on its sepals, its much shorter bracts, and by stems which are hairy along their entire length (Kirkpatrick 1992; Shevock 1992; Hill 1993).

*Sidalcea keckii* fruit consist of four to five wedge-shaped sections arranged in a disk. The sections measure 3 to 4 mm (0.1 to 0.2 in) across, and each contains a single seed (Abrams 1951; Hill 1993; Cypher 1998). Sections mature and separate in May, but their methods of dispersal, other than gravity, are currently unknown (Cypher 1998). Also unknown are the seeds' requirements for germination (sprouting) in the wild,

their typical germination dates, and how long the seeds remain viable in the soil. Based on other Malvaceae species, and on recent observations of extreme yearly fluctuations in numbers of above-ground plants, it is likely that *S. keckii* seeds remain viable for several years and form a persistent soil seed bank (W. Moise as in Ellen Cypher, Endangered Species Recovery Program, California State University, *in litt.*, 1999; S. Hill, Illinois Natural History Survey, pers. comm., 2002 ). Persistent seed banks consist of all the viable seeds left ungerminated in the soil longer than a single growing season, and typically extend over a much greater area than the observable above-ground plants (Given 1994). The number and location of standing plants in a population with a persistent seed bank may vary annually due to a number of factors, including the amount and timing of rainfall, temperature, soil conditions, and the extent and nature of the seed bank. As the depository from which each new generation of plants must grow, such seed banks are extremely important for an annual species' long-term survival in an area, and may maintain a population through years in which few or no above-ground plants can grow or survive (Baskin and Baskin 1978).

The primary pollinators of *Sidalcea keckii* are unknown, but two related California species of *Sidalcea (S.oregana* ssp. *spicata* and *S. malviflora* ssp. *malviflora*) are pollinated primarily by various species and families of solitary bees, bumble bees, and bee flies (Ashman and Stanton 1991; Graff 1999). Many bees of the solitary bee genus *Diadasia* specialize in collecting pollen solely from members of the Malvaceae family (Service 1998).

*Sidalcea keckii* is endemic to California and grows in relatively open areas on grassy slopes of the Sierra foothills in Fresno and Tulare counties. It is associated with serpentine soils (Kirkpatrick 1992; Cypher 1998), which are unusually low in nutrients and high in heavy metals. These soil properties tend to restrict the growth of many competing plants (Brooks 1987). As with many serpentine species, *S. keckii* appears to compete poorly with densely growing non-native annual grasses (Stebbins 1992; Weiss 1999).

The primary reason so much remains unknown about *Sidalcea keckii* is that after botanists first collected samples from a site near White River, Tulare County in 1935, 1938, and 1939 (Wiggins 1940; California Natural Diversity Database (CNDDB) 2001), it was not collected or observed by botanists again for over 50 years. A possible reason for this includes the somewhat vague description of the White River site (Wiggins 1940). Searches at the site may also simply have been conducted during poor years when few above-ground plants had germinated from the seed bank (S. Hill, *in litt.*, 1997). Now that botanists have a better understanding of what constitutes appropriate habitat for the species, based on the discovery of additional sites (see below), it is possible that future surveys may relocate *S. keckii* at the White River site. Initial visits to the site have already identified areas of likely habitat (John Stebbins, Herbarium Curator, California State University, pers. comm., 2002).

*Sidalcea keckii* was presumed extinct until it was rediscovered in 1992 at a site near Mine Hill in Tulare County (Stebbins 1992). The Mine Hill population contained about 60 plants growing on private land around a serpentine rock outcrop on 20 to 40 percent slopes at about 229 meters (m) (750 feet (ft)) elevation. Associated plants included *Achyrachaena mollis* (blow-wives), *Bromus madritensis* ssp. *rubens* (red brome), *Lepidium nitidum* (shining peppergrass), *Senecio vulgaris* (common groundsel), *Plantago erecta* (California plantain), and *Silene gallica* (windmill pink) (Kirkpatrick 1992; Cypher 1998). This population has not been resurveyed since 1992 due to the withdrawal of permission by the landowner (E. Cypher, pers. comm., 2001).

Using habitat information from the Mine Hill site, botanists resurveyed a location in the Piedra area of Fresno County where *Sidalcea keckii* had been documented in 1939, and rediscovered the population in 1998 (Service 1997; CNDDB 2001). This population spans a mix of private and Federal land, much of which has since been purchased by Sierra Foothill Conservancy (SFC) to provide a reserve for the plant (SFC 2001). Although initially only 217 plants were found at the site (Service 2000), subsequent surveys have found 500 to 1,000 plants in 8 separate patches ranging in elevation from 183 to 305 m (600 to 1,000 ft) (Cypher 1998; Chuck Peck, SFC, *in litt.,* 2002). Associated plants at this site include *Bromus hordeaceus* (soft chess), *Dichelostemma capitatum* (blue dicks), *Gilia tricolor* (bird's eye gilia), *Trileleia ixioides* (pretty face), *Trileleia laxa* (Ithuriel's spear), *Asclepias* sp. (milkweed), and *Madia* sp. (tarweed) (Cypher 1998).

*Sidalcea keckii* is threatened by urban development, competition from non-native grasses, agricultural land conversion, and random events (S. Hill, pers. comm., 2002; C. Peck, *in litt.,* 2002; Service 2000). Cattle grazing at the current level does not appear to be detrimental, and may reduce encroachment by non-native grasses (C. Peck, *in litt.,* 2002; Weiss 1999), however, cattle damage *S. keckii* directly by eating and trampling it, and unmanaged increases in grazing during months of flowering or seed maturation could pose a threat (Cypher 1998). The plant's low population numbers, particularly at Mine Hill, leave it vulnerable to random environmental events such as extreme weather, disease, or insect infestations (Shaffer 1981, 1987; Menges 1991). The isolation of *S. keckii* populations exacerbates these vulnerabilities by reducing the likelihood of recolonization of extirpated populations. Inbreeding depression and loss of genetic variability may also be causes for concern in such small isolated populations (Ellstrand and Elam 1993).

**Previous Federal Action**

Federal action on *Sidalcea keckii* began when the Secretary of the Smithsonian Institution, as directed by section 12 of the Act, prepared a report on those native U.S. plants considered to be endangered, threatened, or extinct in the United States. This report (House Doc. No. 94–51) was presented to Congress on January 9, 1975, and included *S. keckii* as a threatened species. On July 1, 1975, we published a notice in the **Federal Register** (40 FR 27823) accepting the report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act and of our intention to review the status of the plant taxa named in the report. On June 16, 1976, we published a proposed rule in the **Federal Register** (41 FR 24523) determining approximately 1,700 vascular plant species to be endangered pursuant to section 4 of the Act. *Sidalcea keckii* was not included on this initial list.

We addressed the remaining plants from the Smithsonian report in a subsequent Notice of Review (Notice) on December 15, 1980 (45 FR 82479). In that Notice, we determined *Sidalcea keckii* to be a category 1 candidate species, which we defined as a species for which we had enough information on biological vulnerability and threats to support preparation of a listing proposal. We published updates of the plant candidate lists in Notices of Review dated September 27, 1985 (50 FR 39526), February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51144), each time maintaining *S. keckii* as category 1 species. In the Notice of Review published February 28, 1996 (61 FR 7596), we discontinued the use of different categories of candidates, and

defined ''candidate species'' as those meeting the definition of former category 1. We maintained *S. keckii* as a candidate species in that Notice, as well as in subsequent Notices published September 19, 1997 (62 FR 49398), and October 25, 1999 (64 FR 57533).

On July 28, 1997, we published a proposed rule to list *Sidalcea keckii* as an endangered species under the Act (62 FR 40325). On June 17, 1999, our failure to issue a final rule and to make a critical habitat determination for *S. keckii* was challenged in *Southwest Center for Biological Diversity, et al.,* v. *U.S. Fish and Wildlife Service, et al.* (N.D. Cal) (Case No. C99–2992 CRB). On February 16, 2000, we published a final rule listing *S. keckii* as an endangered species (65 FR 7757). A May 22, 2000, court order, based on a joint stipulation with the plaintiffs, required us to complete the proposed critical habitat designation by September 30, 2001. The court extended the deadline to propose critical habitat for this species, based on a further settlement agreement reached by the parties. In a consent decree issued October 2, 2001, the court required us to publish a proposed critical habitat designation for *S. keckii* and certain other species by June 10, 2002, and to issue a final critical habitat designation for the species by March 10, 2003 (*Center for Biological Diversity, et al.,* v. *Gale Norton, et al.* (D.D.C.) (Case. No. Civ. 01–2063)).

**Critical Habitat**

Section 3 of the Act defines critical habitat as—(i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures that are necessary to bring an endangered or a threatened species to the point at which listing under the Act is no longer necessary.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferences on Federal actions that are likely to result in the destruction or adverse modification of proposed critical habitat. Aside from the added protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat. Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal lands that do not involve a Federal nexus, critical habitat designation would not afford any additional regulatory protections under the Act.

Critical habitat also provides non-regulatory benefits to the species by informing the public and private sectors of areas that are important for species recovery and where conservation actions would be most effective. Designation of critical habitat can help focus conservation activities for a listed species by identifying areas that contain the physical and biological features essential for the conservation of that species, and can alert the public as well as land-managing agencies to the importance of those areas. Critical habitat also identifies areas that may require special management considerations or protection, and may help provide protection to areas where significant threats to the species have been identified, by helping people to avoid causing accidental damage to such areas.

In order to be included in a critical habitat designation, the habitat must first be ''essential to the conservation of the species.'' Critical habitat designations identify, to the extent known and using the best scientific and commercial data available, habitat areas that provide at least one of the physical or biological features essential to the conservation of the species (primary constituent elements, as defined at 50 CFR 424.12(b)). Section 3(5)(C) of the Act states that not all areas that can be occupied by a species should be designated as critical habitat unless the Secretary determines that all such areas are essential to the conservation of the species. Our regulations (50 CFR 424.12(e)) also state that, ''The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species.''

Section 4(b)(2) of the Act requires that we take into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude areas from critical habitat designation when the benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in extinction of the species.

Our Policy on Information Standards Under the Endangered Species Act, published on July 1, 1994 (59 FR 34271), provides criteria, establishes procedures, and provides guidance to ensure that our decisions represent the best scientific and commercial data available. It requires that our biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information should be the listing rule for the species. Additional information may be obtained from a recovery plan, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, and biological assessments or other unpublished materials.

Section 4 of the Act requires that we designate critical habitat based on what we know at the time of designation. Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas that support newly discovered populations in the future, but are outside the critical habitat designation will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard and the section 9 prohibitions, as determined on the basis of the best available information at the time of the action. Federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

*Methods*

As required by section 4(b)(2) of the Act and regulations at 50 CFR 424.12,

we used the best scientific information available to determine areas that contain the physical and biological features that are essential for the conservation of *Sidalcea keckii.* This included information from our own documents on *S. keckii* and related species; the CNDDB (2001); peer-reviewed journal articles and book excerpts regarding *S. keckii* and related species, or regarding more generalized issues of conservation biology; unpublished biological documents regarding *S. keckii* or related species; site visits, and discussions with botanical experts.

We compared geological and ecological characteristics of the various locations of the plant by using information from the above sources as well as geographic information systems (GIS) coverages of *Sidalcea keckii* population locations (CNDDB 2001); soil survey maps (U.S. Soil Conservation Service (SCS) 1971, 1982; U.S. Department of Agriculture, Natural Resource Conservation Service (NRCS) 2001); aerial photographs (CNES/SPOT Image Corporation (SPOT) 2001); topological features (United States Geological Survey (USGS) 1990); features of underlying rock (California Department of Conservation (CDC) 2000) and vegetation cover (USGS 1990). We also examined geological maps not available on GIS (California Division of Mines and Geology (CDMG) 1991, 1992).

The Piedra and Mine Hill proposed critical habitat units are occupied by both above-ground plants and seed banks, depending on the time of year (i.e., plants are not observable above-ground all year). Although above-ground plants have not been observed on the White River unit since the 1930s, a complete survey has not been done due to the lack of access to lands in private ownership. ''Occupied'' is defined here as an any area with above-ground *Sidalcea keckii* plants *or* a *S. keckii* seed bank of indefinite boundary. Current surveys need not have identified above-ground individuals for the area to be considered occupied because plants may still exist at the site as part of the seed bank (Given 1994). All occupied sites contain some or all of the primary constituent elements and are essential to the conservation of the species, as described below.

Each of the critical habitat units likely includes areas that are unoccupied by *Sidalcea keckii.* ''Unoccupied'' is defined here as an area that contains no above-ground *S. keckii* plants and that is unlikely to contain a viable seed bank. Determining the specific areas that this taxon occupies is difficult because, depending on the climate and the natural variations in habitat conditions, the extent of the distributions may either shrink and disappear, or if there is a residual seed bank present, enlarge and cover a more extensive area. Because it is logistically difficult to determine how extensive the seed bank is at any particular site and because above-ground plants may or may not be present in all patches within a site every year, we cannot quantify in any meaningful way what proportion of each critical habitat unit may actually be occupied by *S. keckii.* Therefore, patches of unoccupied habitat are probably interspersed with patches of occupied habitat in each unit. The inclusion of unoccupied habitat in our critical habitat units reflects the dynamic nature of the habitat and the life history characteristics of this taxon. Unoccupied areas provide areas into which populations might expand, provide connectivity or linkage between colonies within a unit, and support populations of pollinators and seed dispersal organisms. Both occupied and unoccupied areas that are proposed as critical habitat are essential to the conservation of the species.

**Primary Constituent Elements**

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we consider those physical and biological features (primary constituent elements) that are essential to the conservation of the species and that may require special management considerations or protection. These include but are not limited to: space for individual and population growth and for normal behavior; food, water, air, light, minerals or other nutritional or physiological requirements; cover or shelter; sites for germination or seed dispersal; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

Much of what is known about the specific physical and biological requirements of *Sidalcea keckii* is described in the Background section of this proposed rule. The proposed critical habitat is designed to provide sufficient habitat to maintain self-sustaining populations of *S. keckii* throughout its range and to provide those habitat components essential for the conservation of the species. These habitat components provide for: (1) Individual and population growth, including sites for germination, pollination, reproduction, pollen and seed dispersal, and seed dormancy; (2) areas that allow gene flow and provide connectivity or linkage within larger populations; (3) areas that provide basic requirements for growth, such as water, light, and minerals; and (4) areas that support populations of pollinators and seed dispersal organisms.

We believe the long-term conservation of *Sidalcea keckii* is dependent upon the protection of existing population sites and the maintenance of ecological functions within these sites, including connectivity between colonies (i.e., groups of plants within sites) within close geographic proximity to facilitate pollinator activity and seed dispersal. The areas we are designating as critical habitat provide some or all of the habitat components essential for the conservation of *S. keckii.* Based on the best available information at this time, the primary constituent elements of critical habitat for *S. keckii* are:

(1) Minimally shaded annual grasslands in the Sierra foothills containing open patches in which competing vegetation is relatively sparse; and

(2) Serpentine soils, or other soils which tend to restrict competing vegetation.

**Criteria Used to Identify Critical Habitat**

We identified critical habitat areas essential to the conservation of *Sidalcea keckii* in the three primary locations where it currently occcurs or has been known to occur: the Piedra area of Fresno County, the Mine Hill area of Tulare County, and near White River in Tulare County. We are proposing to designate sufficient critical habitat at each site to maintain self-sustaining populations of *S. keckii* at each of these locations.

We are including the White River site in our proposal, despite the fact that *Sidalcea keckii* has not been documented there in recent years. The White River population is the type location where the plant was originally discovered and contains the primary constituent elements that would support the species. It is one of the extremely few locations where *S. keckii* has ever been observed and may be occupied by a seed bank. We have evidence from the Piedra site, where *S. keckii* was undocumented from 1939 until its rediscovery in 1998 (Cypher 1998; CNDDB 2001), that such rediscoveries are possible for *S. keckii.* The Piedra site supports the largest known *S. keckii* population, with 500 to 1,000 plants when last surveyed (Cypher 1998). Even if the species is not rediscovered at the White River site, we still believe the site is essential to the conservation of the species because it is the most

appropriate site for a reintroduction to occur. The combination of limited range, few populations, and restricted habitat makes *S. keckii* susceptible to extinction or extirpation due to random events, such as fire, disease, or other occurrences (Shaffer 1981, 1987; Primack 1993, Meffe and Carroll 1994). Such events are a concern when the number of populations or geographic distribution of a species are severely limited, as is the case with *S. keckii.* Establishment of a third location for *S. keckii* is likely to prove important in reducing the risk of extinction due to such catastrophic events.

Despite the association of *Sidalcea keckii* with serpentine soils (Kirkpatrick 1992; Cypher 1998), only a portion of *S. keckii* plants at the Piedra site grow on soil identified by SCS maps as being serpentine derived (the soil: Fancher extremely stony loam) (SCS 1971; NRCS 2001). Other patches at Piedra, as well as the type locality White River population, grow on what SCS maps indicate are Cibo clays, while the Mine Hill population of *S. keckii* grows in an area mapped as Coarsegold rock outcrop complex (NRCS 2001). Neither of these latter two soil types normally derive from serpentine rock (SCS 1971, 1982), although the underlying geology may contain it. Geologic maps, for example, show the Cibo soils of the Piedra population straddling an arm of underlying serpentine rock (CDMG 1991; CDC 2000). The soils may, therefore, in fact be derived from such rock or include pockets of soil derived from such rock, or the amount of serpentine rock may be too small to be mapped (E. Russell, NRCS, pers. comm., 2002). Available geologic maps fail to show any serpentine rock in the vicinity of the type locality White River population (CDMG 1992; Jennings 1977; CDC 2000). However, Cibo soils have an intrinsic tendency to dry out, harden, and form deep cracks during the summer which can discourage the growth of some plants (E. Russell, pers. comm., 2002). Hence, these soils would limit vegetation competition in favor of *S. keckii.*

Based on available soils and geologic maps, the Coarsegold soils of the Mine Hill population do not overlie serpentine rock, nor are they intrinsically restrictive to plant growth (CDMG 1991; Jennings 1977; SCS 1982; CDC 2000; E. Russell, pers. comm., 2002). The botanists who discovered the population, however, characterized the site as a ''serpentine rock outcrop'' (Kirkpatrick 1992). Although geologic maps do not list serpentine rock at the site itself, they do show it within a mile to the northeast and southwest (CDMG 1991; Jennings 1977; CDC 2000). The site itself sits over ''precenazoic metasedimentary and metavolcanic rocks of great variety'' (Jennings 1977). Hence, it appears likely that the site consists of a pocket habitat of serpentine soil which was too small to be mapped (E. Russell, pers. comm., 2002). SCS soil maps tend to list only the dominant soil type in an area. Other such pocket habitats may exist within the same combination of soil and underlying rock.

*Mapping*

We delineated the proposed critical habitat units by creating data layers in a GIS format. First, we identified the locations of the *Sidalcea keckii* populations using information from the CNDDB (2001), and published and unpublished documents from those who located the known populations (Kirkpatrick 1992; Stebbins 1992). In the case of the Piedra population, where *S. keckii* grew in more than one patch, we identified the locations and approximate dimensions of the various patches as well, based on information provided by SFC (C. Peck, *in litt.*, 2002). We mapped populations or patch locations from all sites on USGS 7.5' quadrangle topological maps (USGS 1990) to obtain information on elevation, slope, and recognizable surface features. We then used soil survey maps (NRCS 2001) to restrict potential critical habitat to the boundaries of the basic soil types on which the populations grow. In areas where the presence of *S. keckii* could not be explained by the properties of the mapped soil type alone (such as the Coarsegold soils at the Mine Hill location), we mapped critical habitat boundaries to the same underlying rock type as at the population site (CDC 2000). We then used recent aerial photos (SPOT 2001), topological maps (USGS 1990), and discussions with experts familiar with the areas (Rosalie Faubion, U.S. Bureau of Reclamation (BOR), pers. comm., 2002; Chuck Peck, Sierra Foothill Conservancy, pers. comm., 2002) to eliminate large contiguous areas which were noticeably more overgrown or which were not grassland and, therefore, not suitable habitat for the species.

In order to provide determinable legal descriptions of the critical habitat boundaries, we then used an overlayed 100 meter grid to establish Universal Transverse Mercator (UTM) North American Datum of 1983 (NAD 83) coordinates which, when connected, provided the critical habitat unit boundaries. We include the legal description for each unit in the Proposed Regulation Promulgation section, below.

In designating critical habitat, we made an effort to avoid developed areas, such as housing developments and agricultural fields, that are unlikely to contribute to the conservation of *Sidalcea keckii.* However, we did not map critical habitat in sufficient detail to exclude all developed areas, or other lands unlikely to contain the primary constituent elements essential for the conservation of *S. keckii.* Areas within the boundaries of the mapped units, such as buildings, roads, parking lots, railroads, airport runways and other paved areas, lawns, and other urban landscaped areas will not contain one or more of the primary constituent elements. Federal actions limited to these areas, therefore, would not trigger a section 7 of the Act consultation, unless they affect the species or primary constituent elements in adjacent critical habitat.

**Proposed Critical Habitat Designation**

Lands proposed for critical habitat designation are under private and Federal jurisdiction. The approximate areas of proposed critical habitat by land ownership are shown in Table 1.

TABLE 1.—APPROXIMATE AREAS IN HECTARES (HA) AND ACRES (AC) OF PROPOSED CRITICAL HABITAT FOR *Sidalcea keckii* BY LAND OWNERSHIP.

| Unit | Federal | State | Private | Total |
|---|---|---|---|---|
| 1. Piedra | 3 ha (7ac) | 0 | 203 ha (503 ac) | 206 ha (510 ac) |
| 2. Mine Hill | 0 | 0 | 86 ha (213 ac) | 86 ha (213 ac) |
| 3. White River | 0 | 0 | 146 ha (362 ac) | 146 ha (362 ac) |
| Totals | 3 ha (7ac) | 0 | 435 ha (1,078 ac) | 438 ha (1,085 ac) |

The proposed critical habitat areas constitute our best assessment at this time of the areas that are essential for the conservation of *Sidalcea keckii*. The three critical habitat units include the only two locations where *S. keckii* has been observed since the 1930's and the type locality, which may be occupied by a seed bank, and is the most appropriate location to consider for reintroduction. A brief description of each critical habitat unit is given below:

**Unit 1: Piedra**

Unit 1 is on the western slopes of Tivy Mountain in the Piedra area of southern Fresno County. It contains 206 ha (510 ac), of which 203 ha (503 ac) are privately owned and 3 ha (7 ac) managed by the BOR (R. Faubion, pers. comm., 2002). Of the privately owned land, 77 ha (189 ac) of proposed critical habitat is on the Tivy Mountain Reserve which is owned by SFC and established for the conservation of *Sidalcea keckii* and other rare plants. SFC uses managed grazing as a tool to reduce competing non-native grasses from *S. keckii* sites, and monitors the plant as well (SFC 2001). Another 6.5 ha (16 ac) of this unit occurs on a conservation easement held by SFC on privately owned land adjacent to the reserve.

In 1998, surveys coordinated by the BOR found 500 to 1,000 plants in the area (Cypher 1998). Surveys conducted in 2000 and 2001 by the SFC found eight separate patches of *Sidalcea keckii* growing on both Fancher and Cibo soils (C. Peck, *in litt.*, 2002). Fancher soils are generally serpentine derived, while Cibo soils generally are not (SCS 1971). An arm of ultramafic (serpentine) rock underlies almost the entire area (CDC 2000), although not all of the known *S. keckii* patches are located within the known extent of the serpentine substrate.

This unit is important to the conservation of the species because it is one of the two sites at which the species has been observed since the 1930's. When the number of populations or geographic distribution of a species are severely limited, as is the case when plants have only been observed recently at two locations, possible extinction or extirpation due to random events become a concern. Examples of random events that are a concern include fire and disease (Shaffer 1981, 1987; Primack 1993, Meffe and Carroll 1994). This unit is also important because it includes the most northerly location known for *S. keckii* and the only location where above-ground plants with maroon-centered flowers have been documented (Cypher 1998).

**Unit 2: Mine Hill**

Unit 2 is about 3 km (2 mi) south of Success Dam and 5 km (3 mi) east of Porterville in Tulare County and contains 86 ha (213 ac), all of which are on privately owned land. Unit 2 encompasses a single known patch of *Sidalcea keckii*, which contained approximately 60 plants when last surveyed in 1992. At the request of the landowner, it has not been surveyed since that time. Although the Coarsegold rock outcrop soils of the area are best suited to rangeland (SCS 1982), which is the current use of the area, the site is zoned for mobile home development (Roberto Brady, Tulare County Planning Department, pers. comm., 1997).

This unit is important to the conservation of the species because it is one of the two known locations where *Sidalcea keckii* plants have been observed since the 1930's. As is the case with Unit 1, when the number of populations or geographic distribution of a species are severely limited, possible extinction or extirpation due to random events become a concern. Examples of random events that are a concern include fire and disease (Shaffer 1981, 1987; Primack 1993, Meffe and Carroll 1994).

**Unit 3: White River**

Unit 3 is located near the town of White River in southern Tulare County. It contains 146 ha (362 ac), all of which is private land. Unit 3 contains the ''type'' location, specimens from which were used to first describe the species in 1940 (Wiggins 1940). This site is the only one not closely associated with serpentine rock, but contains the primary constituent elements that would support the species. This may be due to the presence of currently unknown and unmapped serpentine areas, or it may be due to an increased ability to compete on non-serpentine Cibo soils.

As noted above, the White River site is one of the extremely few locations where *Sidalcea keckii* has ever been observed and may be occupied by a seed bank. *Sidalcea keckii* plants may still occur here, but none have been documented recently. Even if the species is not rediscovered at the White River site, we believe the site is essential to the conservation of the species. Because *S. keckii* has been observed at the site, it is the most appropriate site at which a reintroduction might be attempted. The combination of small range, few populations, and restricted habitat makes *S. keckii* susceptible to extinction or extirpation from a significant portion of its range due to random events, such as fire, disease, or other occurrences (Shaffer 1981, 1987; Primack 1993, Meffe and Carroll 1994). Such events are a concern when the number of populations or geographic distribution of a species are severely limited, as is the case with *S. keckii*. Establishment of a third location for *S. keckii* is likely to be an important component in reducing the risk of extinction due to such catastrophic events. This location also represents the southernmost extent of the known historical range of the species.

**Effects of Critical Habitat Designation**

*Section 7 Consultation*

Section 7(a) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, permit, or carry out do not destroy or adversely modify critical habitat. Destruction or adverse modification of critical habitat occurs when a Federal action directly or indirectly alters critical habitat to the extent it appreciably diminishes the value of critical habitat for the conservation of the species. Individuals, organizations, States, local governments, and other non-Federal entities are affected by the designation of critical habitat only if their actions occur on Federal lands, require a Federal permit, license, or other authorization, or involve Federal funding.

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is designated or proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a species proposed for listing, or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the action agency in eliminating conflicts that may be caused by the proposed action. The conservation measures in a conference report are advisory.

We may issue a formal conference report, if requested by the Federal action agency. Formal conference reports include an opinion that is prepared according to 50 CFR 402.14, as if the species was listed or critical habitat designated. We may adopt the formal

conference report as the biological opinion when the species is listed or critical habitat designated, if no substantial new information or changes in the action alter the content of the opinion (50 CFR 402.10(d)).

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Through this consultation, the Federal action agency would ensure that the permitted actions do not destroy or adversely modify critical habitat.

If we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also provide ''reasonable and prudent alternatives'' to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid the likelihood of jeopardizing the continued existence of listed species, or resulting in the destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modification to extensive redesign or relocation of the project.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions under certain circumstances, including instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement, or control has been retained, or is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or conference with us on actions for which formal consultations has been completed, if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Activities that may affect *Sidalcea keckii* or its critical habitat will require section 7 of the Act consultation. Activities on private lands that require a permit from a Federal agency, such as a permit from the U.S. Army Corps of Engineers (Corps) under section 404 of the Clean Water Act (33 U.S.C. 1344 *et seq.*), a section 10(a)(1)(B) of the Act permit from the Service, or any other activity requiring Federal action (i.e., funding or authorization from the Federal Highways Administration or Federal Emergency Management Agency) will also continue to be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions on non-Federal lands that are not federally funded, authorized, or permitted do not require section 7 consultation. Not all of the areas within these units are capable of supporting *S. keckii* or its primary constituent elements, and such areas would not be subject to section 7 consultation.

To properly portray the effects of critical habitat designation, we must first compare the section 7 requirements for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 ensures that actions funded, authorized, or carried out by Federal agencies are not likely to jeopardize the continued existence of a listed species, or destroy or adversely modify the listed species' critical habitat. Actions likely to jeopardize the continued existence of a species are those that would appreciably reduce the likelihood of the species' survival and recovery. Actions likely to ''destroy or adversely modify'' critical habitat are those that would appreciably reduce the value of critical habitat for the recovery of the listed species.

Common to both definitions is an appreciable detrimental effect on the recovery of a listed species. Given the similarity of these definitions, actions likely to destroy or adversely modify critical habitat would almost always result in jeopardy to the species concerned, particularly when the species is present in the area of the proposed action. When the species is present in an area, designation of critical habitat for *Sidalcea keckii* is not likely to result in regulatory requirements above those already in place due to the presence of the listed species. When the species is not present in an area, designation of critical habitat for *S. keckii* may result in an additional regulatory burden when a Federal nexus exists.

Section 4(b)(8) of the Act requires us to evaluate briefly and describe, in any proposed or final regulation that designates critical habitat, those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat would be those that alter the primary constituent elements to the extent that the value of critical habitat for the conservation of *Sidalcea keckii* is appreciably reduced. We note that such activities may also jeopardize the continued existence of the species.

Activities that, when carried out, funded, or authorized by a Federal agency may directly or indirectly destroy or adversely modify critical habitat for *Sidalcea keckii* include, but are not limited to:

(1) Ground disturbances which destroy or degrade primary constituent elements of the plant (e.g., clearing, tilling, grading, construction, road building, mining, etc);

(2) Activities that directly or indirectly affect *Sidalcea keckii* plants (e.g., herbicide application and off-road vehicle use that could degrade the habitat on which the species depends, incompatible introductions of non-native herbivores, incompatible grazing management during times when *S. keckii* is producing flowers or seeds, etc.);

(3) Encouraging the growth of *Sidalcea keckii* competitors (e.g., widespread fertilizer application); and

(4) Activities which significantly degrade or destroy *Sidalcea keckii* pollinator populations (e.g., pesticide applications).

If you have questions regarding whether specific activities will constitute destruction or adverse modification of critical habitat, contact the Field Supervisor, Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section). Requests for copies of the regulations on listed wildlife, and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Branch of Endangered Species, 911 NE. 11th Ave., Portland, OR 97232 (telephone 503/231–2063; facsimile 503/231–6243).

**Relationship to Habitat Conservation Plans and Other Planning Efforts**

Currently, no habitat conservation plans (HCPs) exist that include *Sidalcea keckii* as a covered species. In the event that future HCPs covering *S. keckii* are developed within the boundaries of designated critical habitat, we will work with applicants to ensure that the HCPs provide for protection and management of habitat areas essential for the conservation of this species. This will be accomplished by either directing development and habitat modification to nonessential areas, or appropriately modifying activities within essential

habitat areas so that such activities will not adversely modify the primary constituent elements. The HCP development process would provide an opportunity for more intensive data collection and analysis regarding the use of particular habitat areas by *S. keckii*. The process would also enable us to conduct detailed evaluations of the importance of such lands to the long-term survival of the species in the context of constructing a system of interlinked habitat blocks configured to promote the conservation of the species through application of the principles of conservation biology.

We will provide technical assistance and work closely with applicants throughout the development of any future HCPs to identify lands essential for the long-term conservation of *S. keckii* and appropriate management for those lands. Furthermore, we will complete intra-Service consultation on our issuance of section 10(a)(1)(B) permits for these HCPs to ensure permit issuance will not destroy or adversely modify critical habitat.

**Economic Analysis**

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial information available, and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude such areas from critical habitat when such exclusion will result in the extinction of the species.

We will conduct an analysis of the economic impacts of designating these proposed areas as critical habitat prior to a final determination. When completed, we will announce the availability of the draft economic analysis with a notice in the **Federal Register**, and we will open a public comment period on the draft economic analysis and the proposed rule at that time.

**Public Comments Solicited**

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

(1) The reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefits of designation will outweigh any threats to the species due to designation;

(2) Specific information on the amount and distribution of *Sidalcea keckii* and its habitat, and which habitat is essential to the conservation of this species and why;

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on small entities or families;

(5) Economic and other values associated with designating critical habitat for *Sidalcea keckii* such as those derived from non-consumptive uses (e.g., hiking, camping, bird-watching, enhanced watershed protection, improved air quality, increased soil retention, ''existence values,'' and reductions in administrative costs); and

(6) Whether our approach to critical habitat designation could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concern and comments.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods: (1) You may submit written comments and information to the Field Supervisor at the address provided in the **ADDRESSES** section above; (2) You may also comment via the electronic mail (e-mail) to *fw1kecks_checkermallow@fws.gov.* Please submit e-mail comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: [1018–AG93] and your name and return address in your e-mail message.'' If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Sacramento Fish and Wildlife Office at phone number 916–414–6600. Please note that the Internet address ''*fw1kecks_checkermallow@fws.gov*'' will be closed out at the termination of the public comment period; and (3) You may hand-deliver comments to our Sacramento office (see **ADDRESSES** section above).

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**Peer Review**

In accordance with our policy published on July 1, 1994 (59 FR 34270), we will solicit the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure listing decisions are based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the 60-day comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

**Public Hearing**

The Act provides for one or more public hearings on this proposal, if requested. Requests for public hearings must be made at least 15 days prior to the close of the public comment period. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings in the **Federal Register** and local newspapers at least 15 days prior to the first hearing.

**Clarity of the Rule**

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as

the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the notice in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? (5) What else could we do to make the notice easier to understand?

Send a copy of any comments that concern how we could make this notice easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240. You may e-mail your comments to this address: *Exsec@ios.doi.gov.*

**Required Determinations**

*Regulatory Planning and Review*

In accordance with Executive Order 12866, this document is a significant rule and was reviewed by the Office of Management and Budget (OMB). The Service is preparing a draft economic analysis of this proposed action. The Service will use this analysis to meet the requirement of section 4(b)(2) of the ESA to determine the economic consequences of designating the specific areas as critical habitat and excluding any area from critical habitat if it is determined that the benefits of such exclusion outweigh the benefits of specifying such areas as part of the critical habitat, unless failure to designate such area as critical habitat will lead to the extinction of *Sidalcea keckii*. This analysis will be available for public comment before finalizing this designation. The availability of the draft economic analysis will be announced in the **Federal Register**.

*Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

This discussion is based upon the information regarding potential economic impact that is available to the Service at this time. This assessment of economic effect may be modified prior to final rulemaking based upon development and review of the economic analysis being prepared pursuant to section 4(b)(2) of the ESA and E.O. 12866. This analysis is for the purposes of compliance with the Regulatory Flexibility Act and does not reflect the position of the Service on the type of economic analysis required by *New Mexico Cattle Growers Assn.* v. *U.S. Fish & Wildlife Service* 248 F.3d 1277 (10th Cir. 2001).

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic effect on a substantial number of small entities. SBREFA also amended the RFA to require a certification statement. We are hereby certifying that this proposed rule will not have a significant effect on a substantial number of small entities. The following discussion explains our rationale for making this assertion.

According to the Small Business Administration (http://www.sba.gov/size/), small entities include small organizations, such as independent non-profit organizations, and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses. Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we consider the types of activities that might trigger regulatory impacts under this rule as well as the types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

In determining whether this rule could ''significantly affect a substantial number of small entities'', the economic analysis first determined whether critical habitat could potentially affect a ''substantial number'' of small entities in counties supporting critical habitat areas. While SBREFA does not explicitly define ''substantial number,'' the Small Business Administration, as well as other Federal agencies, have interpreted this to represent an impact on 20 percent or greater of the number of small entities in any industry. In some circumstances, especially with critical habitat designations of limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement. Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies. Some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation.

Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies, non-Federal activities are not affected by the designation if they lack a Federal nexus. In areas occupied by *Sidalcea keckii*, Federal agencies funding, permitting, or implementing activities are already required, through consultation with us under section 7 of the Act, to avoid jeopardizing the continued existence of *S. keckii*. If this critical habitat designation is finalized, Federal agencies also must ensure, also through consultation with us, that their activities do not destroy or adversely modify designated critical habitat. However, for the reasons discussed above, we do not believe this will result in any additional regulatory burden on Federal agencies or their applicants.

In unoccupied areas, or areas of uncertain occupancy, designation of critical habitat could trigger additional review of Federal activities under section 7 of the Act, and may result in additional requirements on Federal activities to avoid destroying or adversely modifying critical habitat. However, outside the existing developed areas, land use on the majority of the proposed critical habitat is agricultural, such as livestock grazing and farming. Should a federally funded, permitted, or implemented project be proposed that may affect designated critical habitat, we will work with the Federal action agency and any applicant, through section 7 consultation, to identify ways to implement the proposed project while minimizing or avoiding any adverse effect to the species or critical habitat. In our experience, the vast majority of such projects can be successfully implemented with at most minor

changes that avoid significant economic impacts to project proponents.

In general, two different mechanisms in section 7 consultations could lead to additional regulatory requirements for one small business, on average, that may be required to consult with us each year regarding their project's impact on *Sidalcea keckii* and its habitat. First, if we conclude, in a biological opinion, that a proposed action is likely to jeopardize the continued existence of a species or adversely modify its critical habitat, we can offer ''reasonable and prudent alternatives.'' Reasonable and prudent alternatives are alternative actions that can be implemented in a manner consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that would avoid jeopardizing the continued existence of listed species or resulting in adverse modification of critical habitat. A Federal agency and an applicant may elect to implement a reasonable and prudent alternative associated with a biological opinion that has found jeopardy or adverse modification of critical habitat. An agency or applicant could alternatively choose to seek an exemption from the requirements of the Act or proceed without implementing the reasonable and prudent alternative. However, unless an exemption were obtained, the Federal agency or applicant would be at risk of violating section 7(a)(2) of the Act if it chose to proceed without implementing the reasonable and prudent alternatives.

Secondly, if we find that a proposed action is not likely to jeopardize the continued existence of a listed animal species, we may identify reasonable and prudent measures designed to minimize the amount or extent of take and require the Federal agency or applicant to implement such measures through non-discretionary terms and conditions. We may also identify discretionary conservation recommendations designed to minimize or avoid the adverse effects of a proposed action on listed species or critical habitat, help implement recovery plans, or to develop information that could contribute to the recovery of the species.

Based on our experience with consultations pursuant to section 7 of the Act for all listed species, virtually all projects—including those that, in their initial proposed form, would result in jeopardy or adverse modification determinations in section 7 consultations-can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. These measures, by definition, must be economically feasible and within the scope of authority of the Federal agency involved in the consultation. As we have a very limited consultation history for *Sidalcea keckii*, we can only describe the general kinds of actions that may be identified in future reasonable and prudent alternatives. The kinds of actions that may be included if future reasonable and prudent alternatives become necessary, include conservation set-asides, management of competing non-native species, restoration of degraded habitat, construction of protective fencing, and regular monitoring. These are based on our understanding of the needs of the species and the threats it faces, as described in the final listing rule and this proposed critical habitat designation.

It is likely that a developer could modify a project or take measures to protect *Sidalcea keckii*. Based on the types of modifications and measures that have been implemented in the past for plant species, a developer may take such steps as installing fencing or re-aligning the project to avoid sensitive areas. The cost for implementing these measures for one project is expected to be of the same order of magnitude as the total cost of the consultation process, i.e., approximately $10,000. It should be noted that developers likely would already be required to undertake such measures due to regulations under the California Environmental Quality Act. These measures are not likely to result in a significant economic impact to project proponents.

In summary, we have considered whether this rule would result in a significant economic effect on a substantial number of small entities. We have determined, for the above reasons, that it will not affect a substantial number of small entities. Furthermore, we believe that the potential compliance costs for the remaining number of small entities that may be affected by this rule will not be significant. Therefore, we are certifying that the proposed designation of critical habitat for *Sidalcea keckii* is not expected to have a significant adverse impact on a substantial number of small entities. Thus, an initial flexibility analysis is not required.

*Executive Order 13211*

On May 18, 2001, the President issued an Executive Order on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Although this proposed rule is a significant regulatory action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

*Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

The Service will use the economic analysis to evaluate consistency with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*).

*Takings*

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of proposing to designate approximately 438 ha (1,085 ac) of lands in Fresno and Tulare counties, California as critical habitat for *Sidalcea keckii* in a takings implication assessment. This preliminary assessment concludes that this proposed rule does not pose significant takings implications. However, we have not yet completed the economic analysis for this proposed rule. Once the economic analysis is available, we will review and revise this preliminary assessment as warranted.

*Federalism*

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior policy, we requested information from, and coordinated development of this proposed critical habitat designation with, appropriate State resource agencies in California. The designation of critical habitat in areas currently occupied by *Sidalcea keckii* imposes no additional restrictions to those currently in place and, therefore, has little incremental impact on State and local governments and their activities. The designation of critical habitat in unoccupied areas may require section 7 of the Act consultation on non-Federal lands (where a Federal nexus occurs) that might otherwise not have occurred. However, there will be little additional impact on State and local governments and their activities because all but one of the proposed critical habitat areas are occupied. The designation may have some benefit to these governments in that the areas essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species are identified. While this definition and identification does not alter where and what federally sponsored activities may

occur, it may assist these local governments in long-range planning, rather than waiting for case-by-case section 7 consultations to occur.

*Civil Justice Reform*

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We are proposing to designate critical habitat in accordance with the provisions of the Endangered Species Act. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of *Sidalcea keckii.*

*Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)*

This rule does not contain any new collections of information that require OMB approval under the Paperwork Reduction Act. This rule will not impose new record-keeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*National Environmental Policy Act*

We have determined we do not need to prepare an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act, as amended. We published a notice outlining our reason for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This proposed determination does not constitute a major Federal action significantly affecting the quality of the human environment.

*Government-to-Government Relationship With Tribes*

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. The proposed critical habitat for *Sidalcea keckii* does not contain any Tribal lands or lands that we have identified as impacting Tribal trust resources.

**References Cited**

A complete list of all references cited in this proposed rule is available upon request from the Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

**Author**

The primary author of this notice is Glen Tarr, Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

**Proposed Regulation Promulgation**

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below:

## PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.12(h) revise the entry for ''*Sidalcea keckii,*'' under ''FLOWERING PLANTS,'' to read as follows:

**§ 17.12 Endangered and threatened plants.**

* * * * *

(h) * * *

| Species | | Historic range | Family | Status | When listed | Critical habitat | Special rules |
|---|---|---|---|---|---|---|---|
| Scientific name | Common name | | | | | | |
| FLOWERING PLANTS | | | | | | | |
| * | * | * | * | * | * | * | |
| *Sidalcea keckii* ..... | Keck's checkermallow. | U.S.A. (CA) ..... | Malvaceae—Mallow | E | 685 | 17.96(b) | NA |
| * | * | * | * | * | * | * | |

3. In § 17.96, as proposed to be amended at 65 FR 66865, November 7, 2000, amend paragraph (b) by adding an entry for *Sidalcea keckii* in alphabetical order under Family Malvaceae to read as follows:

**§ 17.96 Critical habitat—plants.**

* * * * *

(b) * * *

Family Malvaceae: *Sidalcea keckii* (Keck's checkermallow)

(1) Critical habitat units are depicted for Fresno and Tulare counties, California, on the maps below.

(2) The primary constituent elements of critical habitat for *Sidalcea keckii* are the habitat components that provide:

(i) Minimally shaded annual grasslands in the Sierra foothills containing open patches in which competing vegetation is relatively sparse; and

(ii) Serpentine soils, or other soils which tend to restrict competing vegetation.

(iii) Existing man-made features and structures, such as buildings, roads, railroads, airports, other paved areas, lawns, and other urban landscaped areas, do not contain one or more of the primary constituent elements. Federal actions limited to those areas, therefore, would not trigger a consultation under section 7 of the Act unless they may affect the species and/or primary constituent elements in adjacent critical habitat.

(3) *Critical Habitat Map Units.*

(i) Data layers defining map units were created on a base of USGS 7.5′ quadrangles, and proposed critical habitat units were then mapped using Universal Transverse Mercator (UTM) coordinates.

(ii) Critical Habitat Map Units—Index Map Follows:

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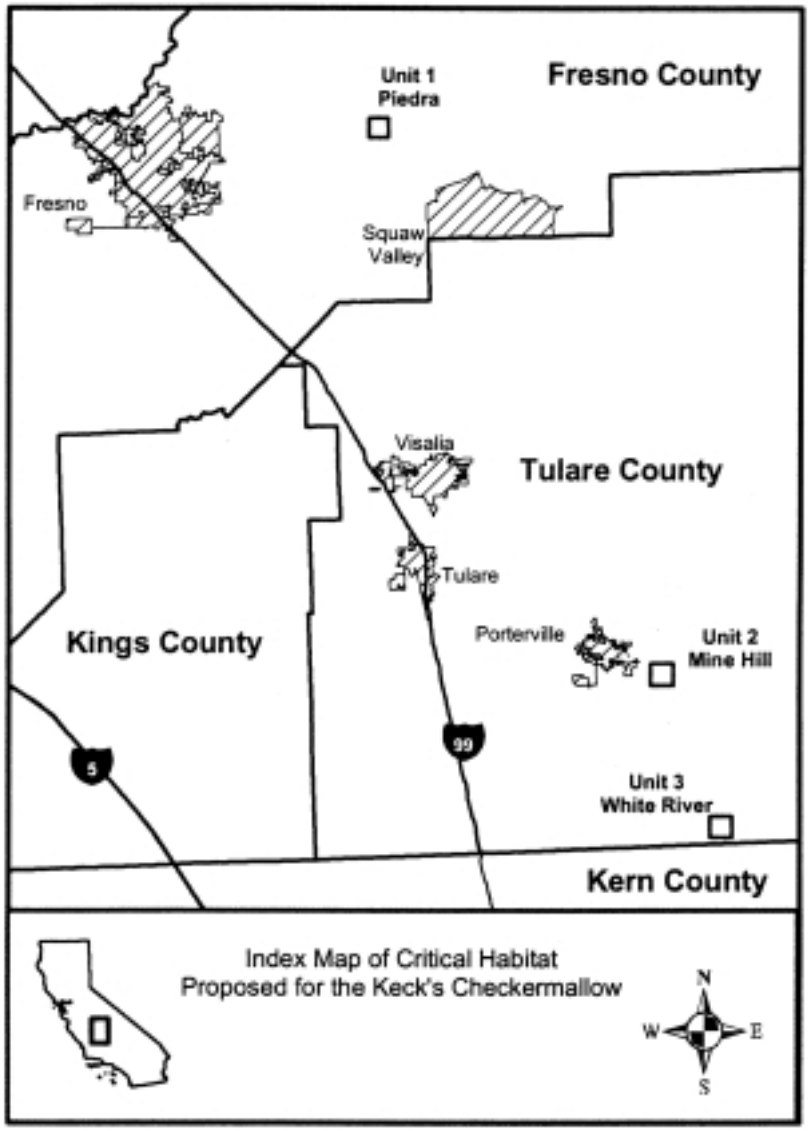
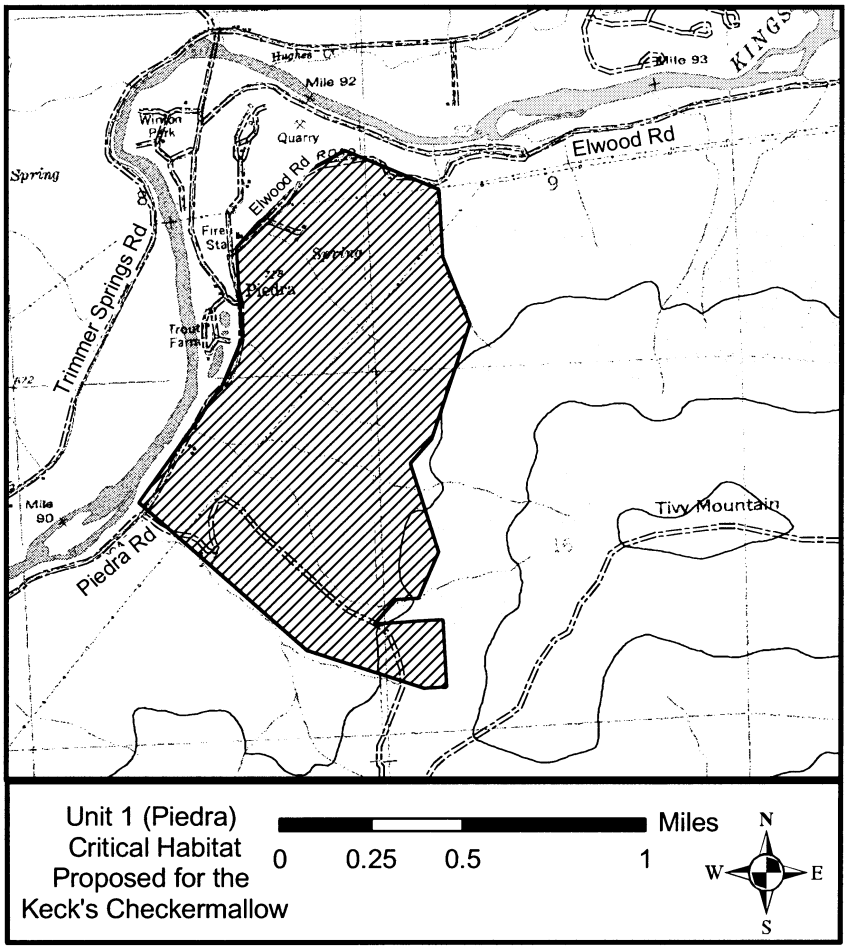



(4) Map Unit 1: Piedra Unit, Fresno County, California

(i) From USGS 1:24,000 quadrangle maps Piedra, and Pine Flat Dam, California; land bounded by the following UTM11 NAD83 coordinates (E,N): 288300, 4074700; 288200, 4074700; 287700, 4074900; 287000, 4075600; 287400, 4076100; 287500, 4076300; 287500, 4076700; 287800, 4077000; 288000, 4077100; 288400, 4076900; 288400, 4076600; 288500, 4076300; 288300, 4075800; 288200, 4075700; 288300, 4075300; 288200, 4075100; 288100, 4075100; 288000, 4075000; 288300, 4075000; 288300, 4074700.

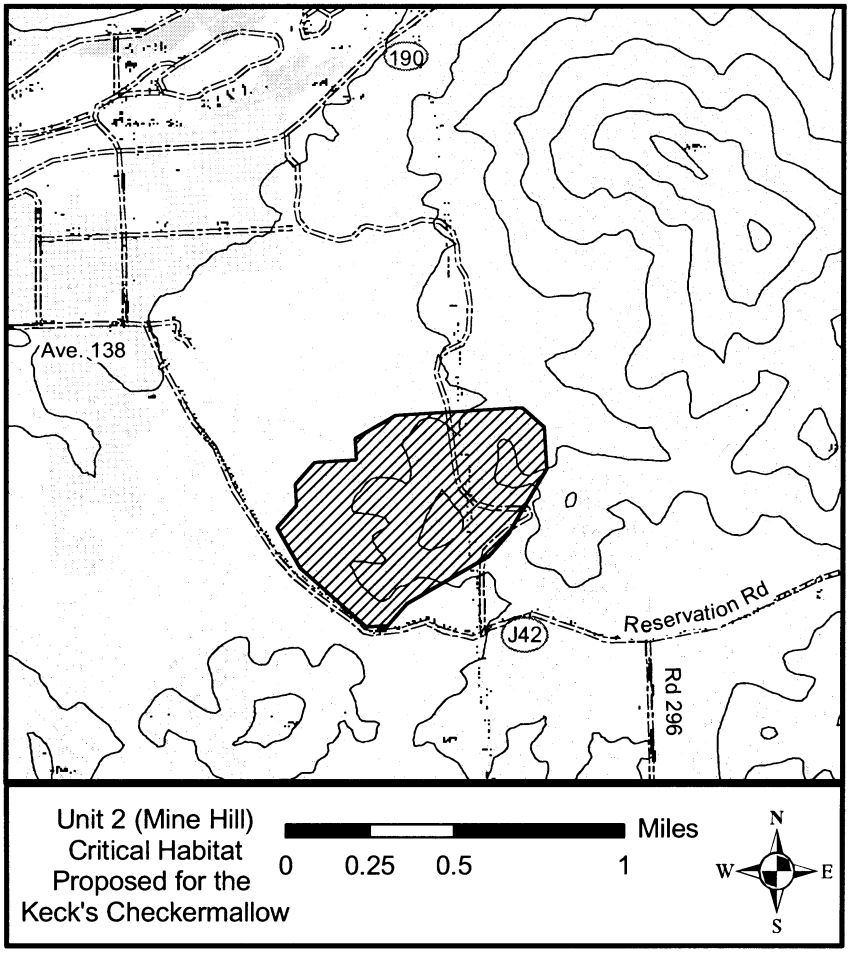
(ii) *Map Unit 1* Map Follows:




(5) Map Unit 2: Mine Hill Unit, Tulare County, California

(i) From USGS 1:24,000 quadrangle Success Dam, California; land bounded by the following UTM11 NAD83 coordinates (E,N): 326600, 3988600; 326500, 3988600; 326200, 3988900; 326100, 3989100; 326200, 3989200; 326200, 3989300; 326300, 3989400; 326500, 3989400; 326500, 3989500; 326700, 3989600; 327300, 3989600; 327400, 3989500; 327400, 3989300; 327200, 3989000; 327100, 3988900; 326700, 3988700; 326600, 3988600.

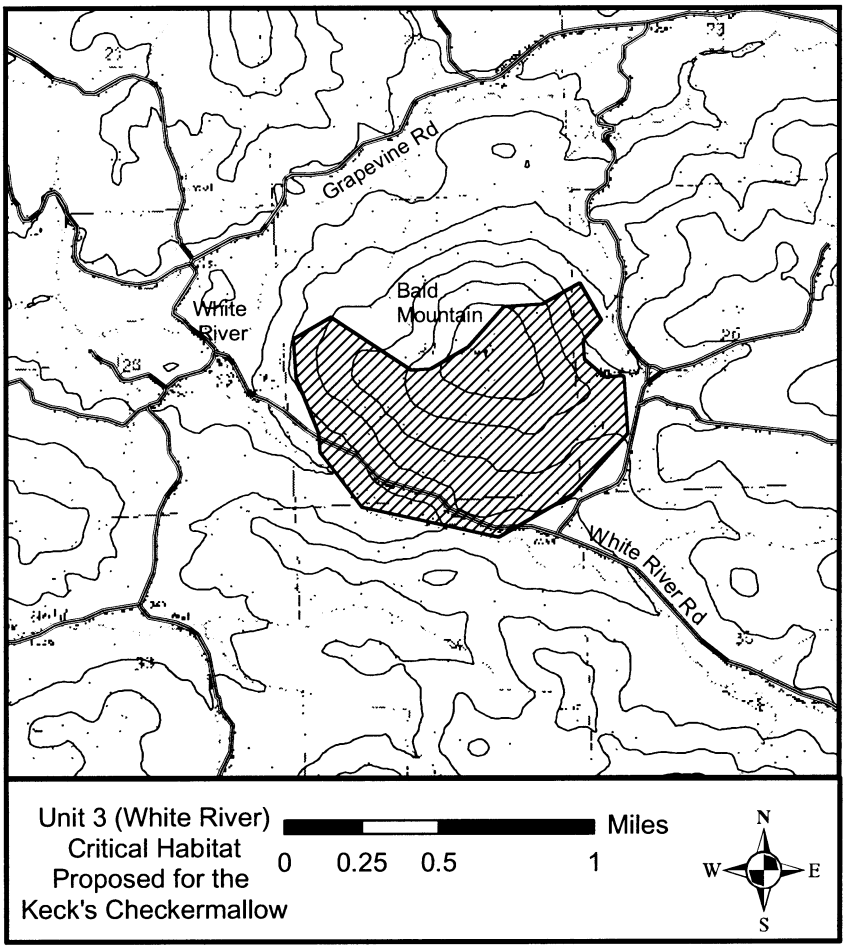
(ii) *Map Unit 2* Map Follows:




(6) Map Unit 3: White River Unit, Tulare County, California

(i) From USGS 1:24,000 quadrangle maps White River, California; land bounded by the following UTM11 NAD83 coordinates (E,N): 334800, 3963600; 334100, 3963800; 333900, 3964100; 333900, 3964200; 333800, 3964500; 333800, 3964700; 334000, 3964800; 334400, 3964500; 334500, 3964500; 334700, 3964600; 334900, 3964800; 335100, 3964800; 335300, 3964900; 335400, 3964700; 335300, 3964600; 335300, 3964500; 335400, 3964400; 335500, 3964400; 335500, 3964100; 335200, 3963800; 334800, 3963600.

(ii) *Map Unit 3* Map Follows:




* * * * *

Dated: June 13, 2002.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 02–15430 Filed 6–18–02; 8:45 am]

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# Notices

Federal Register
Vol. 67, No. 118
Wednesday, June 19, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

### Community Outreach and Assistance to Women, Limited Resource and Other Traditionally Under Served Farmers and Ranchers Program

**AGENCY:** Federal Crop Insurance Corporation, Risk Management Agency (RMA), USDA.

**ACTION:** Notice of Funds Availability (NOFA) and request for Applications (RFA) for outreach and assistance to women, limited resource, socially disadvantaged and other traditionally under served farmers and ranchers and request for comments.

**SUMMARY:** In accordance with section 506(l) of the Federal Crop Insurance Act (Act) (7 U.S.C. 1506(l)) and section 192 of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104–127), the Federal Crop Insurance Corporation (FCIC) announces the availability of approximately $1 million in fiscal year (FY) 2002 for cooperative agreements that will be used to provide outreach and assistance to under-served agricultural producers such as women, limited resource, socially disadvantaged and other traditionally under-served farmers and ranchers (under-served agricultural producers). Funding will be provided to qualified community based organizations, educational institutions, other non profit organizations and other entities to identify and implement unique and innovative outreach projects for providing these under-served agricultural producers with the knowledge, skills, and tools necessary to make informed risk management decisions for their operations in areas including, but not limited to crop insurance and other risk management tools, marketing strategies, managing human resources, legal and labor.

*Closing Dates:* The deadline for submission of all Applications for the fiscal year (FY 2002) grant cycle is 5 p.m. EDT on July 19, 2002.

Applications received after the deadline will not be considered for funding.

**FOR FURTHER INFORMATION CONTACT:** Applicants and other interested parties are encouraged to contact: Marie Buchanan, National Outreach Program Manager, Telephone (202) 690–2686, Email: *Marie.Buchanan@usda.gov.* David Wiggins, Raleigh Regional Office, Telephone (919) 875–4880, or Alesia Swan, Davis Regional Office, Telephone (530) 792–5875. You may also obtain additional information regarding this announcement from the RMA web site at *www.rma.usda.gov.*

**Paperwork Reduction Act of 1995**

In accordance with section 3507 (j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501), the information collection or recordkeeping requirements included in the notice have been submitted for approval to the Office of Management and Budget (OMB). Please send your written comments to Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue S.W., Washington, DC. 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

We are soliciting comments from the public comment concerning our proposed information collection and recordkeeping requirements. We need this outside input to help us:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission responses).

*Title:* Community Outreach and Assistance to Women, Limited Resource and Other Traditionally under Served Farmers and Ranchers.

*Abstract:* Pursuant to Section 506(l) of the Federal Crop Insurance Act (Ac) (7 U.S.C. 1506(l)) and section 192 of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104–127), the Federal Crop Insurance Corporation (FCIC) announces the availability of approximately $1 million in fiscal year (FY) 2002 for cooperative agreements that will be used to provide outreach and assistance to under-served agricultural producers such as women, limited resource, socially disadvantaged and other traditionally under served farmers and ranchers (under-served agricultural producers). Funding will be provided to qualified community based organizations, educational institutions, non profit and cooperative organizations, and other non profit entities to identify and implement unique and innovative outreach projects for providing under-served agricultural producers with the knowledge, skills and tools necessary to make informed risk management decisions for their operations in areas including, but not limited to crop insurance and other risk management tools, marketing strategies, managing human resources, legal and labor. To apply for funding, RMA is requesting interested applicants to submit Applications, which will include, a 1-page Summary of Proposed Project, a Project Narrative and OMB grant forms.

*Purpose:* The requested information will be used to review and evaluate applications for outreach and assistance to under served agricultural producers, based on the criteria identified in the Notice.

*Estimate of burden:* The public reporting burden for this collection of information is estimated to average: 6 hours per response for new applications and 4 hours for renewal applications. This is a one-time collection of this information.

*Respondents/Affected Entities:* educational institutions, community based and cooperative organizations, and non-profit organizations.

*Estimated annual number of respondents:* 25 applicants (15 new and 10 Renewal).

*Estimated annual number of responses per respondent:* 1 response per respondent.

*Estimated annual number of responses:* 25 total annual responses.

*Estimated total annual burden on respondents:* 6 hours (new) and 4 hours (Renewal).

*Recordkeeping Requirements:* 3 yrs.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Copies of this information collection can be obtained from: Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue S.W., Washington, DC. 20250.

**SUPPLEMENTARY INFORMATION:**

**Authority**

Section 506(l) of the Federal Crop Insurance Act (Act) (7 U.S.C. 1506(l)) and section 192 of the Federal Agriculture Improvement and Reform Act of 1996 (Public Law 104–127).

**Eligibility Criteria**

Applicants are encouraged to form partnerships with other entities that complement, enhance and/or increase the effectiveness and efficiency of the proposed project. Proposals may be submitted by: 1890 Land Grant Colleges and Universities, Indian tribal community colleges and Alaska native cooperative colleges, Hispanic serving post-secondary educational institutions, and other post-secondary educational institutions with demonstrated experience in serving women, limited resource, socially disadvantaged, and other traditionally under served farmers and ranchers, and Community-based and cooperative organizations with demonstrated experience in providing assistance and other agriculturally related services, which can provide documentary evidence of its past experience in working with under-served agricultural producers.

**Program Application Materials**

This Application Kit is available at the RMA web site at *http://www.rma.usda.gov.* If you do not have access to the web page or have trouble downloading material and would like a hardcopy, you may contact: Marie Buchanan, Risk Management Agency, Washington, DC (202) 690–2686, David Wiggins, Risk Management Agency, Raleigh Regional Office Telephone: (919)875–4880 or Alesia Swan, Davis Regional Office Telephone: (530) 792–5875.

**Purpose of Program**

Proposals are requested for outreach projects to provide information and assistance to under-served agricultural producers.

The purpose of RMA's Community Outreach Cooperative Agreement Program is to fund unique and innovative projects that contribute to:

a. Improving the economic viability of under-served agricultural producers;

b. Educating under-served agricultural producers on the availability and use of crop insurance products and other risk management tools to manage production, marketing human resources, labor and legal risks associated with farming;

c. Improving the delivery of insurance products and other risk management tools and services to under-served agricultural producers;

d. Increasing the use of crop insurance and other risk management tools;

e. Identifying and addressing barriers encountered by the target audience; and

f. Providing program information and technical assistance on the availability and use of risk management tools.

**Funding Availability**

The amount of funds available in FY 2002 for support of cooperative agreement awards under this program is approximately $1,000,000. There is no commitment by USDA/RMA to fund any particular project or to make a specific number of awards. Applicants awarded a cooperative agreement for an amount that is less than the amount requested will be required to modify their application to conform to the reduced amount before execution of the grant. This program is listed in the Catalog of Federal Domestic Assistance (CFDA) under Number 10.450.

**Funding Instrument**

The funding instrument will be a cooperative agreement. The terms of the agreement can vary from 12 to 18 months. No maximum or minimum funding levels has been established for individual projects.

**Funding Restrictions**

Cooperative agreement funds may not be used to:

1. Plan, repair, rehabilitate, acquire, or construct a building or facility including a processing facility;

2. To purchase, rent, or install fixed equipment;

3. Repair or maintain privately owned vehicles;

4. Pay for the preparation of the grant application;

5. Fund political activities;

6. Pay costs incurred prior to receiving this grant;

7. Fund any activities prohibited in 7 CFR Parts 3015 and 3019, as applicable.

Section 708 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001, Public Law 106–387, limits indirect costs under cooperative agreements between USDA and non-profit institutions, including institutions of higher education, to ten percent of the total direct costs of the agreement. Section 708 authorizes an exception to the ten percent limit for institutions that compute indirect cost rates on a similar basis for all agencies for which the Act makes appropriations. If requested, indirect costs must be justified and may not exceed the ten percent limitation or the current rate negotiated with the cognizant Federal negotiating agency. Applications from colleges and universities must provide a statement in the budget narrative verifying that the indirect costs requested are in accordance with institutional policies.

**Substantial Federal Involvement**

The Federal awarding agency must be substantially involved in the project to enter into a cooperative agreement to provide assistance. Therefore, applications should include the work to be done by RMA to fulfill this requirement.

**Matching Requirements**

There is no requirement for grant recipients to provide matching funds under this program.

**Applications Considered for Funding**

Applicants must specify whether their application is a new, renewal, or resubmitted application, and provide the required information in accordance with the following:

*New Applications*

This is a project application that has not been preciously submitted to the RMA Outreach Program. All new applications will be reviewed competitively using the selection process and evaluation criteria described in this NOFA.

*Renewal Applications*

This is a project proposal that requests additional funding for a project beyond the period that was approved in an original or amended award. Applications for renewed funding must contain the same information as required for new applications, and additionally must contain a Progress Report. Renewal applications must be received by the relevant due dates, will be evaluated in competition with other pending applications, and will be reviewed according to the same evaluation criteria as new applications.

*Resubmitted Applications*

This is a proposal that was previously submitted to the RMA outreach office, but was not funded. Resubmitted proposals must be reviewed by the relevant due dates, will be evaluated in competition with other pending applications, and will be reviewed according to the same evaluation criteria as new applications.

**Proposals Format and Content**

Use the following guidelines to prepare and submit an application package. Each proposal must contain the following elements in the order indicated. Proper preparation of applications will assist reviewers in evaluating the merits of each application in a systematic, consistent fashion.

a. Prepare the application on one side of the page using standard size (8½'' x 11'') white paper, one-inch margins, typed or word processed using no type smaller than 12 point font, and single or double spaced. Use an easily readable font face. (e.g. Times New Roman or Courier).

b. Number each page of the application sequentially, starting with the Project Narrative, including the budget pages, required forms, and any appendices.

c. Staple the application in the upper left-hand corner. Do not bind. An original and 4 copies (5 total) must be submitted in one package, along with five additional copies of the ''Project Summary'' as a separate attachment.

d. Include original illustrations (photographs, color prints, etc.) in all copies of the application to prevent loss of meaning through poor quality reproduction.

*1. Proposal Cover Page*

Each copy of the application must contain a ''Proposal Cover Page,'' which provides the title of the proposal, and the name, address, telephone and fax numbers of applicant and proposing project director. The original must contain the pen-and-ink signatures of the proposing project director and the authorized organizational representative (AOR), who is the individual who possesses the necessary authority to commit the organization's time and other relevant resources to the project.

*2. Table of Contents*

For consistency and ease in locating information, each application must contain a detailed Table of Contents immediately following the proposal cover page. The Table of Contents should contain page numbers for each section of the application. Page numbering should begin with the first page of the Project Narrative.

*3. Project Summary*

The application must contain a concise project summary. The summary should not exceed 2 pages in length. The summary should be a self-contained, specific description of the activity to be undertaken and should focus on overall project goals and supporting objectives; plans to accomplish the project goals; and relevance of the project to the goals of RMA's outreach program.

*4. Project Narrative*

The Narrative should not exceed 15 pages of written text and up to five additional pages for figures and tables, and should contain the following components:

a. *Introduction:* A clear statement of the goals, supporting objectives, and proposed outcomes of the project.

b. *Background and Existing Situation:* Provide a detailed description of the circumstances giving rise to the need for the proposed activity to outreach and assist under-served agricultural producers.

c. *Objectives:* The objectives should be clear, complete and logically arranged. The statements should detail the major steps necessary to develop the plan with specific milestones and planned accomplishments. The objectives should contain details of how the accomplishments will advance the goal of providing under-served agricultural producers with the knowledge, skills and tools necessary to make informed risk management decisions for their operations regarding to achieve economic viability.

d. *Procedures:* Describe the steps necessary to implement the proposed one-year plan including the methods or plan of action to attain the stated objectives.

e. *Evaluation:* Describe the evaluation plan for the proposed activity, including impact factors and indicators of effectiveness and efficiency in accomplishing objectives.

*5. Scope of Program*

All proposals must contain explicit information indicating how results from the project will be measured, evaluated, and reported. The indicators used to measure results of the project should be clear and objective and focus on the anticipated impacts on under-served agricultural producers.

*6. Program Delivery*

Proposals should identify unique and innovative initiatives and will include the use of strong organizational skills to reach under-served agricultural producers. Proposals should show how public or private sector (or both) delivery points would be used to reach under-served agricultural producers.

*7. Collaborative Arrangements*

If the nature of the proposed project requires collaboration or sub-contractual arrangements with other entities, the applicant must identify the collaborator or sub-contractor and provide a full explanation of the nature of the relationship.

The proposal must also contain in detail the collaborative duties and responsibilities of RMA in the development and delivery of the proposed project.

*8. Budget*

A budget and a detailed narrative in support of the budget are required for the overall project period. Show all funding sources and itemized costs for the line items contained on the budget form (SF–424A). Funds may be requested under any of the line items listed, provided that the item or service for which support is requested is identified as necessary for successful conduct of the proposed project, is allowable under the authorizing legislation and the applicable Federal cost principles, and is not prohibited under any applicable Federal statute. Salaries of project personnel who will be working on the project should be requested in proportion to the effort that they will devote to the project.

*9. Personnel*

Summarize the relevant experience of key project personnel that will enable them to successfully complete the project. Include a brief curriculum vitae, which provides enough information for proposal reviewers to make an informed judgment regarding capabilities and experience.

*10. Current and Pending Support*

All proposals must list any other current public or private support to which key personnel identified in the proposal have committed portions of their time, whether or not salary support for such persons involved is included in the budget. Analogous information must be provided for any pending proposals that are being considered by, or that will be submitted in the near future to, other USDA programs or agencies. Concurrent submission of identical or similar proposals to other possible sponsors will not prejudice proposal review or evaluation for this program.

**Submission of Proposal**

*1. When and Where to Submit*

Full proposals must be received by close of business July 19, 2002. Proposals sent by First Class mail must be sent to the following address: U.S. Department of Agriculture, Risk Management Agency, Civil Rights and Community Outreach AG. Stop 0801, 1400 Independence Avenue, SW., Washington, DC 20250.

Hand-delivered proposals and those delivered by overnight express mail or courier service should be brought to the following address: U.S. Department of Agriculture, Risk Management Agency, Civil Rights and Community Outreach, Room 3053, 1400 Independence Ave, SW, Washington, DC 20250.

*2. Acknowledgment of Proposals*

The receipt of all proposals will be acknowledged in writing and will contain an identifying proposal number. Once a proposal has been assigned an identification number, the number should be referred to in future correspondence. If the applicant does not receive an acknowledgment within 60 days of the submission deadline, please contact the program contact. Once the application has been assigned an application number, please cite that number on all future correspondence.

**Methods for Evaluating and Ranking Applications**

Proposals that meet the deadlines and are in conformance with all administrative requirements outlined in this NOFA will be evaluated by a panel of technical experts appointed by RMA. Applications will be evaluated competitively and points awarded as specified in the Evaluation Criteria and Weights section. After assigning points upon those criteria, applications will be listed in initial rank order and presented, along with funding level recommendations, to the Administrator of RMA, who will make the final decision on awarding of a cooperative agreement. Applications will then be funded in final rank order until all available funds have been expended. Applicants must score 50 points or more during the first round to be considered for funding. Unused remaining funds from the first round of competition will be allocated to the second round of competition. Unless the applicant withdraws their proposal, eligible, but unfunded, proposals from the first competition will be considered in the second competition, with or without a revision by the applicant. Applications will be rated and ranked based on the evaluation criteria and weights listed below.

**Evaluation Criteria and Weights**

Prior to technical evaluation, each proposal will be reviewed to determine compliance with all requirements stated in this NOFA. Submissions that do not fall within the guidelines as stated in the NOFA will be eliminated from the competition and will be returned to the applicant. After this initial screening, RMA will use the following criteria to rate and rank proposals received in response to RMA's request for submission of full proposals. Failure to address any of the following criteria will disqualify the proposal.

*Innovative Approach Points 30*

Degree to which the proposal reflects innovative strategies for reaching under-served agricultural producers and achieving the project objectives. Recipient must demonstrate that they have developed an innovative approach that can be used by other organizations as a model. To be considered innovative, the approach must propose an easily replicated new or useful service or method or providing service to recipients that builds their capacity for economic viability. Applications that demonstrate the greatest: (1) Ease of replication (2) uniqueness of proposal; and (3) financial return to under-served agricultural producers will receive the highest score.

*Institutional Commitment and Resources Points 20*

The degree to which the institution or organization is committed to the project and experience, qualifications, competence and availability of personnel and resources to direct and carry out the project. Applications demonstrating the greatest commitment and quality of personnel will receive the highest score.

*Overall Quality of the Proposal Points 10*

The degree to which the proposal complies with the requirements in this NOFA and is of high quality. Applications that demonstrate the greatest: (1) Adherence to instructions; (2) accuracy and completeness of forms; (3) clarity and organization of ideas; (4) thoroughness and sufficiency of detail in the budget narrative; (5) specificity of allocations between targeted populations of under-served producers if the proposal addresses more than one population; and (6) completeness of the curriculum vitae for all key personnel associated with the project will receive the highest score.

*Feasibility and Policy Consistency Points 20*

The degree to which the proposal describes its objectives and evidences a high level of feasibility and consistency with the USDA/RMA policy and mission. This criterion relates to the adequacy and soundness of the proposed approach to the solution of the problem and evaluates the plan of operation, timetable, evaluation and dissemination plans. Applications that demonstrate the most sound and feasible projects will receive the highest score.

*Number of Target Audience Served and Collaboration Points 20*

The degree to which the proposals reflect partnerships and collaborative initiatives with other agencies or organizations to enhance the quality and effectiveness of the program. Applications that serve the greatest variety and number of under-served agricultural producers will receive the highest score.

*Diversity Points 20*

Applicant must identify the geographic areas to be served. After applications have been evaluated and awarded points under the first five criteria. Applications that promote the broadest geographic diversity will receive the highest score.

**Award Process**

The awarding official reserves the right to make awards to ensure the variety among successful applicants and the nature of the projects funded in order to accomplish the program objectives. The awarding official also reserves the right to negotiate with applicants recommended for funding regarding project revisions (e.g., reductions in scope of work), funding level, or period of support prior to an award, based on the amount of resources available to achieve the broad program objectives. Revisions to proposals recommended for funding may not increase the proposed scope of funding for a project or otherwise undermine or circumvent the competitive nature of the award process. The final decision to award is at the discretion of the awarding official. The awarding official shall consider the technical review panel's comments and recommendations and any other pertinent information before making a final decision. After a decision regarding funding is made, RMA and the awardees will enter into a cooperative agreement. The awarding official will notify the awardees of approval and inform it of the necessary

documents. Once all award decisions are made, RMA will notify all unsuccessful applicants that their proposals did not receive an award.

**OMB Required Forms—Please Submit With Your Application**

| | Forms |
|---|---|
| 1. Application for Federal Assistance. | SF–424 |
| 2. Budget Information—Non construction Programs. | SF–424A |
| 3. Assurances-Non-Construction Programs. | SF 424–B |
| 4. Certification Regarding Debarment, Suspension and Other Responsibility Matters (Primary Covered Transactions). | AD–1047 |
| 5. Certification Regarding Drug-Free Workplace Requirements (Grants) Alternative I-For Grantees Other than Individuals. | AD–1049 |
| 6. Certifications Regarding Drug-Free Workplace Requirements (Grants) Alternative II—For Grantees who are individuals. | AD–1050 |
| 7. Certifications Regarding Lobbying—Contracts, Grants, Loans and Cooperative Agreements. | |
| 8. Notice to Applicants—Certification/Disclosure Requirements Related to Lobbying. | |

Signed in Washington, D.C. on June 12, 2002.

**Ross J. Davidson, Jr.,**

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. 02–15383 Filed 6–18–02; 8:45 am]

**BILLING CODE 3410–08–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Arapaho National Recreation Area Forest Health Project EIS—Arapaho and Roosevelt National Forests and Pawnee National Grassland

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The Forest Service will prepare an environmental impact statement on a proposal to take pre-suppression measures on a mountain pine beetle infestation of stands of lodgepole pine, and to address overall forest health issues in high-risk areas, within the Arapaho National Recreation Area (ANRA), and adjacent to Rocky Mountain National Park, in Grand County, Colorado (Township 2N & 3N, Range 75W & 76W). The purpose of the proposal is to moderate the mountain pine beetle infestation, to reduce fuels buildup, to foster a healthy, diverse forest through vegetation management, and to preserve the outstanding scenic values of the area. If implemented, the Forest Service will improve the overall forest health and condition of the ANRA through forest management activities in the following key areas: (1) Developed recreation sites, (2) Main scenic corridors and viewsheds, (3) Adjacent to private property to complement treatment efforts on private lands, and (4) Other areas adjacent to or within the ANRA in which the condition of forested areas is declining.

**DATES:** Comments concerning the scope of the analysis should be received on or before July 19, 2002. See **SUPPLEMENTARY INFORMATION** section for public meeting dates.

**ADDRESSES:** Send written comments to James S. Bedwell, Forest Supervisor, Arapaho and Roosevelt National Forests and Pawnee National Grassland, 240 West Prospect Road, Fort Collins, CO 80524. Electronic mail may be sent to rcaissie@fs.fed.us. See **SUPPLEMENTARY INFORMATION** section for additional information about electronic filing and public meeting addresses.

**FOR FURTHER INFORMATION CONTACT:** Rick Caissie, EIS Team Leader, (970) 494–2715.

**SUPPLEMENTARY INFORMATION:** The Forest Service proposes to treat vegetation within and adjacent to the Arapaho National Recreation Area (ANRA) to suppress a mountain pine beetle infestation, reduce fuels buildup, and improve the overall forest health of the area. The ANRA is a congressionally designated area on the Sulphur Ranger District of the Arapaho and Roosevelt National Forests and Pawnee National Grassland managed primarily or recreation and public enjoyment. Over 1.5 million people visit the ANRA annually. The area is characterized by 5 major reservoirs surrounded by forested, mountainous terrain and includes twenty-two heavily used developed recreation sites. Much of the ANRA is adjacent to Rocky Mountain Naitonal Park or the Indian Peaks Wilderness. A portion of the ANRA is the Indian Peaks Adjacent Area B Inventoried Roadless Area (IRA), and, although no permanent roads are proposed to be constructed within the IRA some of the vegetation treatments are proposed for the IRA.

The forested land base within the ANRA is dominated by lodgepole pine. A key component of managing the ANRA is retention of mature forest vegetation for scenic and aesthetic values. Over the last several years Grand County has sustained heavy lodgepole pine mortality in mature forested areas due to an epidemic mountain pine beetle population. One of the epicenters of the epidemic is the ANEA and adjacent private lands. Mortality within lodgepole pine stands is likely to continue if pre-suppression activities do not take place. The resulting loss of forest cover will adversely affect public recreation and enjoyment within the ANRA. Additionally, both standing and down dead trees contribute to fuel accumulation and increase the potential for wildfire.

Many private landowners have expressed concern about the beetle infestation. In efforts to suppress the beetle infestation some of these landowners have treated lodgepole stands on their properties, through logging activities, and have requested that the Forest Service treat adjacent NFS lands to suppress the insect population and reduce the fuels hazard.

The beetle infestation is widespread in the ANRA, leading to poor health and condition of forested areas. There is a need to address overall health issues in high-risk areas of the ANRA. The purpose of this project is to foster a healthy, diverse forest through vegetation management, and for critical resource restoration and protection. The results and benefit of such management would:

- Reduce lodgepole pine susceptibility to insect attack.
- Maintain insect populations at endemic levels, rather than epidemic levels.
- Conserve and perpetuate forest vegetation.
- Reduce the heavy accumulation of forest fuels.
- Complement treatment efforts on adjacent private lands.
- Improve overall health, scenic quality, and condition of forested areas.
- Reduce the threat of catastrophic wildfire in high value recreation areas and high population density areas.

**Decisions To Be Made**

The Forest Service has several decisions to make: Whether to treat the vegetation within the ANRA to suppress the mountain pine beetle and reduce the potential fuels buildup; where within the ANRA to do the treatments; and what treatments would best meet the purpose and accomplish the goals of the project.

The Forest Service proposes to improve overall forest health and condition through forest management activities in the following key areas in and around the ANRA:

- Developed recreation sites.

• Main scenic corridors and viewsheds.

• Adjacent to private property to complement treatment efforts on private lands.

• Other areas adjacent to or within the ANRA in which the condition of forested areas is declining. In some cases temporary right-of-way easements through private lands will be acquired to reach National Forest System lands.

Treatments would be designed to complement recreation, wildlife and scenic resource values, and would help meet objectives to suppress insect and disease outbreaks and reduce woody fuel accumulation. Proposed treatment methods may include:

• Applying approval insecticides to protect healthy trees from insect infestation within developed recreation sites.

• Cutting and removing infested trees, and thinning susceptible stands of lodgepole pine to reduce the ability of beetles to spread, using traditional, ground based logging methods.

• Cutting and removing dead trees, possibly in patch cuts, to reduce heavy fuel accumulations.

• On-site burning of logging-generated slash to reduce fuels and/or to stimulate aspen regeneration where feasible.

• Establishing other native tree species in select areas, such as developed campgrounds, to private long-term resilience to beetle infestations and other insects and diseases.

• Improve both scenic and vegetative diversity by managing for a variety of native tree species.

**Responsible Official**

Rick D. Cables, Regional Forester, USFS, Region 2—Rock Mountain Region, PO Box 25127, Lakewood, CO 80225; 740 Simms Street, Golden, CO 80401 is the Responsible Official for making the decision. He will documents his decisions and rationale in a Record of Decision.

**Preliminary Issues**

Five preliminary issues have been identified:

1. Forest Health: The mountain pine beetle population has increased within and adjacent to the ANRA, both on National Forest System lands and on lands under other ownership. There is a possibility that most of the larger, mature lodgepole pine trees within or adjacent to the ANRA will be killed by the mountain pine beetle within the next few years if suppression efforts are not taken. Efforts made to reduce the susceptibility to lodgepole pine trees to mountain pine beetle attack should not ignore other forest health issues, but should also consider: (1) Conserving forest vegetation, (2) increasing age diversity, and (3) increasing species diversity.

2. Fuels/fire hazard: There is a possibility that if action is not taken to reduce the current forest fuels accumulation, and to reduce the rate of fuel accumulations that may result with a mountain pine beetle infestation, that the fire hazard will increase to an unacceptable level. Private property owners feel they cannot create a defensible space around their property without treatment on adjacent NFS lands.

3. The Indian Peaks Adjacent Area B Roadless Area: There is concern that the construction of temporary roads to access timber, as well as the cutting and removal of trees, would compromise the character of the roadless area.

4. Intermix: The portion of the ANRA affected by the mountain pine beetle outbreak is an area of extensive intermixed land ownerships. Access to NFS lands may only be possible across non-federal lands where the Forest Service has no legal access. The beetle infestation crosses ownership boundaries, and treatments may have to cross boundaries to be effective.

5. The Analysis Area is adjacent or close to Rocky Mountain National Park (RNMP), the Indian Peaks Wilderness, the Never Summer Wilderness and the Bowen Gulch Protection Area: There is concern that efforts made to suppress the mountain pine beetle infestation within the analysis area may detrimentally affect the characteristics that were recognized when Congress set these areas aside, such as adverse effects on the scenery of the ANRA, which serves as foreground to RMNP.

**Public Involvement, Rationale, and Public Meetings**

The public is encouraged to take part in the process and is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments and assistance from Federal, State and local agencies and other individuals or organizations who may be interested in, or affected by, the proposed action.

While public participation in this analysis is welcome at any time, comments received within 30 days of the publication of this notice will be especially useful in the preparation of the Draft EIS. Public meetings associated with the project will be held to gain a better understanding of public issues and concerns. These meetings will be held in Grand Lake, Colorado on June 27, 2002 from 6–8 p.m. at the Grand Lake Town Hall; and at the Shadow Mountain Work Center 3 miles south of Grand Lake on July 13 from 10–3 p.m. (field trip/site visit).

Information from the meetings will be used in preparation of the draft and final EIS. The scoping process will include identifying: Potential issues, significant issues to be analyzed in depth, alternatives to the proposed action, and potential environmental effects of the proposal and alternatives.

**Electronic Access and Filing Addresses**

Comments may be sent by electronic mail (e-mail) to *rcaissie@fs.fed.us.* Please reference the ANRA Forest Health Project on the subject line. Also, include your name and mailing address with your comments so documents pertaining to this project may be mailed to you.

**Estimated Dates for Filing**

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by November 2002. At that time EPA will publish a Notice of Availability of the draft EIS in the **Federal Register.** The comment period on the draft EIS will be 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register.** It is very important that those interested in the management of this area participate at that time.

The final EIS is scheduled to be completed by March 2003. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal.

**The Reviewers Obligation To Comment**

The Forest Service believes it is important to give reviewers notice at this early stage processes required due to several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. (*Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 533 (1978).) Also, environmental objections that could be raised at the draft environmental impact statement may be waived or dismissed by the courts. (Wisconsin Heritages, Inc. v. Harris, 490

F. Supp. 1334, 1338 (E.D. Wis. 1980).) Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

**James S. Bedwell,**

*Forest Supervisor, Arapaho-Roosevelt National Forests and Pawnee National Grassland.*

[FR Doc. 02–15471 Filed 6–18–02; 8:45 am]

**BILLING CODE 3410–BT–M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Revised Land and Resource Management Plan for the Finger Lakes National Forest (Seneca and Schuyler Counties, New York)

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of Intent Supplement.

**SUMMARY:** On May 2, 2002 the USDA Forest Service published in the **Federal Register**, a Notice of Intent (NOI) to prepare an Environmental Impact Statement and to revise the Finger Lakes National Forest Land and Resource Management Plan (Forest Plan). A document titled, ''Implementing the Finger Lakes Land and Resource Management Plan—A Fifteen Year Retrospective'' (Retrospective) was referenced in the NOI. This document was not available at the beginning of the 60-day public comment period. To ensure that those who wants to reference the Retrospective when commenting on the NOI, the comment period on the NOI is being extended from 60 to 90 days. The comment period on the NOI will now end on July 30, 2002.

*Supplement:* The Finger Lakes National Forest is extending the comment period for the NOI from 60 to 90 days. Written comments on the NOI will now be accepted until July 30, 2002, All other information in the May 2, 2002 NOI remains the same.

Dated: June 12, 2002.

**Paul Brewster,**

*Forest Supervisor.*

[FR Doc. 02–15364 Filed 6–18–02; 8:45 am]

**BILLING CODE 3410–11–M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Revised Land and Resource Management Plan for the Green Mountain National Forest (Addison, Bennington, Rutland, Washington, Windham, and Windsor Counties, Vermont)

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of Intent Supplement.

**SUMMARY:** On May 2, 2002 the USDA Forest Service published in the **Federal Register**, a Notice of Intent (NOI) to prepare an Environmental Impact Statement and to revise the Green Mountain National Forest Land and Resource Management Plan (Forest Plan). A document titled, ''Implementing the Green Mountain Land and Resource Management Plan—A Fifteen Year Retrospective'' (Retrospective) was referenced in the NOI. This document was not available at the beginning of the 60-day public comment period. To ensure that those who want to reference the Retrospective when commenting on the NOI, the comment period on the NOI is being extended from 60 to 90 days. The comment period on the NOI will now end on July 30, 2002.

*Supplement:* The Green Mountain National Forest is extending the comment period for the NOI from 60 to 90 days. Written comments on the NOI will now be accepted until July 30, 2002. All other information in the May 2, 2002 NOI remains the same.

Dated: July 12, 2002.

**Paul Brewster,**

*Forest Supervisor.*

[FR Doc. 02–15365 Filed 6–18–02; 8:45 am]

**BILLING CODE 3410–11–M**

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

### Notice of Public Meeting on Rural Broadband Access; Correction

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Correction to notice.

**Correction**

In notice document 02–14682, beginning on page 40268 in the issue of Wednesday, June 12, 2002, make the following corrections:

On page 40268, in the third column, under the eighth paragraph, fifth line, the correct facsimile number is (202) 720–0810, and on the sixth line, the correct e-mail address is *bpurcell@rus.usda.gov.*

Dated: June 13, 2002.

**Roberta D. Purcell,**

*Assistant Administrator, Telecommunications Program, Rural Utilities Service.*

[FR Doc. 02–15487 Filed 6–18–02; 8:45 am]

**BILLING CODE 3410–15–P**

## DEPARTMENT OF COMMERCE

### Census Bureau

### 2002 Survey of Business Owners and Self-Employed Persons (SBO)

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before August 19, 2002.

**ADDRESSES:** Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6608, 14th and Constitution Avenue, NW., Washington, DC 20230, or via e-mail at *MClayton@doc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Valerie Strang, (301) 457–3316, Bureau of the Census, CSD, Room 1183–3, Washington, DC 20233–6400 or via e-mail at *Valerie.Cherry.Strang@census.gov.*

**SUPPLEMENTARY INFORMATION**

## I. Abstract

The Census Bureau plans to conduct the 2002 Survey of Business Owners and Self-Employed Persons (SBO), previously known as the Survey of Minority-Owned Business Enterprises and the Survey of Women-Owned Business Enterprises (SMOBE/SWOBE). This survey will provide the only comprehensive, regularly collected source of information on selected economic and demographic characteristics for businesses and business owners by race, ethnicity, and gender. The survey is conducted as part of the economic census program which is required by law to be taken every five years under Title 13 of the United States Code, Sections 131, 193, and 224.

Businesses will be eligible to be selected for this survey if they reported any business activity on any one of the following Internal Revenue Service tax forms: 1040 (Schedule C), ''Profit or Loss from Business'' (Sole Proprietorship); 1065, ''U.S. Partnership Return of Income''; or any one of the 1120 corporate tax forms.

The following changes have been made to the 2002 SBO:

- The questions about race and ethnicity have been modified to meet OMB guidelines to allow respondents the opportunity to select more than one race category, and the ''Some other race'' classification has been omitted. Also, per the OMB guidelines, the Hispanic origin question is placed before the race question.
- Background research suggested difficulty with aggregate reporting of race and ethnicity combinations for multiple owners. Thus, the survey adopts person-level reporting for a variety of characteristics for up to three persons owning majority interest in the business. Based on summaries from the 1997 SMOBE/SWOBE showing 75 percent of businesses surveyed had three or fewer owners, the SBO–1 questionnaire will capture information for, at most, three owners of firms that are not sole proprietorships. Sole proprietors will be mailed the SBO–2 questionnaire, a shorter version of the SBO–1 form, which will capture information for up to two owners.
- Several new questions have been borrowed from the former Characteristics of Business Owners survey, which has not been funded for the upcoming economic census. These items will fill the void for many data users, including the Small Business Administration and other interested associations. Some of these new questions have been incorporated into the individual owner questions, while others are asked about the entire business.

The owner questions ask for age, education, if the owner is disabled, the average number of hours spent managing or working in the business, and whether the business provided the owner's primary source of income. The business questions ask for the year the earliest owner established, purchased, or acquired the business; whether the business was home-based or family-owned; whether the business operated as a franchise; which types of customers accounted for 10 percent or more of the business's sales; and if the business obtained financing for expansion, capital improvements or start-up during 2002.

- A new question has been added to increase our understanding of businesses' use of alternative employment arrangements.

To alleviate reporting problems encountered on the 1997 SMOBE/SWOBE and to test the aforementioned changes, a pretest of the proposed 2002 SBO form has been conducted using principles of questionnaire design and methodological research. Cognitive interviews were completed with more than sixty respondents in two rounds of testing of the early versions of the SBO form. Then a voluntary mailout/mailback survey of the revised form was conducted in February 2002, which canvassed an additional 6,629 respondents. After two mail report form follow-ups, 37 percent of the pretest forms were returned. The form underwent further review and analysis and additional revisions were made in an effort to reflect, where feasible, comments received from the pretest respondents. This resulted in the final versions of 2002 SBO–1 and SBO–2 questionnaires to be submitted to OMB.

## II. Method of Collection

The Census Bureau will use a mailout/mailback survey form to collect the data. The questionnaires will be mailed from our National Processing Center in Jeffersonville, Indiana. Two mail report form follow-ups will be conducted at approximately one-month intervals. Upon closeout of the survey, the response data will be edited and reviewed.

## III. Data

*OMB Number:* Not available.

*Form Number:* SBO–1, ''Survey of Business Owners and Self-Employed Persons'' (for firms other than sole proprietorships) and SBO–2, ''Survey of Business Owners and Self-Employed Persons'' (for sole proprietorships).

*Type of Review:* Regular review.

*Affected Public:* Large and small businesses, other for-profit and nonprofit organizations, and publicly held corporations.

*Estimated Number of Respondents:* 2.5 million.

*Estimated Time Per Response:* 10 minutes.

*Estimated Total Annual Burden Hours:* 416,666.

*Estimated Total Annual Cost:* $8,712,486.

*Respondent's Obligation:* Mandatory.

**Legal Authority:** Title 13, United States Code, Sections 131, 193, and 224.

## IV. Requests for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 13, 2002.

**Madeleine Clayton,**

*Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 02–15375 Filed 6–18–02; 8:45 am]

**BILLING CODE 3510–07–P**

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## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### Licensing Responsibilities and Enforcement

**ACTION:** Proposed Collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995,

Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before August 19, 2002.

**ADDRESSES:** Direct all written comments to Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6608, 14th and Constitution Avenue, NW, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ms. Marna Hayes, BIS ICB Liaison, (202) 482–5211, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

This information collection package supports the various collections, notifications, reports, and information exchanges that are needed by the Office of Export Enforcement and Customs to enforce the Export Administration Regulations and maintain the National Security of the United States.

**II. Method of Collection**

Submitted as required.

**III. Data**

*OMB Number:* 0694–0122.
*Form Number:* N/A.
*Type of Review:* Regular submission for extension of a currently approved collection.
*Affected Public:* Individuals, businesses or other for-profit and not-for-profit institutions.
*Estimated Number of Respondents:* 145,372.
*Estimated Time Per Response:* Up to 2.5 hours per response.
*Estimated Total Annual Burden Hours:* 70,104 hours.
*Estimated Total Annual Cost:* No capital expenditures are required.

**IV. Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: June 13, 2002.

**Madeleine Clayton,**

*Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 02–15378 Filed 6–18–02; 8:45 am]

**BILLING CODE 3510–DT–P**

## DEPARTMENT OF COMMERCE

## Bureau of Industry and Security

## BIS Program Evaluation

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before August 19, 2002.

**ADDRESSES:** Direct all written comments to Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6608, 14th and Constitution Avenue, NW, Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ms. Marna Hayes, BIS ICB Liaison, (202) 482–5211, Department of Commerce, Room 6622, 14th & Constitution Avenue, NW, Washington, DC, 20230.

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

This form is used by BIS seminar instructors at seminar programs throughout the year. Seminar participants are asked to fill out the evaluation form during the program and turn it in at the end of the program. The responses to these questions provide useful and practical information that BIS can use to determine that it is providing a quality program and gives BIS information useful to making recommended improvements. It also shows attendees that BIS cares about their training experience and values their viewpoint.

**II. Method of Collection**

Survey.

**III. Data**

*OMB Number:* 0694–0125.
*Form Number:* None.
*Type of Review:* Regular submission for extension of a currently approved collection.
*Affected Public:* Individuals, businesses or other for-profit and not-for-profit institutions.
*Estimated Number of Respondents:* 4,000.
*Estimated Time Per Response:* 10 minutes per response.
*Estimated Total Annual Burden Hours:* 667.
*Estimated Total Annual Cost:* No capital expenditures are required.

**IV. Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: June 13, 2002.

**Madeleine Clayton,**

*Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 02–15379 Filed 6–18–02; 8:45 am]

**BILLING CODE 3510–33–P**

## DEPARTMENT OF COMMERCE

## International Trade Administration

## BISNIS Publication Subscription Form

**ACTION:** Proposed collection; comment request.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and

respondent burdens, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2) (A)).

**DATES:** Written comments must be submitted on or before August 19, 2002.

**ADDRESSES:** Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6608, 14th & Constitution Avenue, NW., Washington, DC 20230 or via the Internet at *http://www.MClayton@doc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Request for additional information or copies of the information collection instrument and instructions should be directed to: Trevor Gunn, Market Access and Compliance, Business Information Service for the Newly Independent States (BISNIS), 14th & Constitution Avenue, NW., Washington, DC 20230; Phone number: (202) 482–4656, and fax number: (202) 482–2293.

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The International Trade Administration's (ITA) Business Information Service for the Newly Independent States (BISNIS) program offers business information and counseling to U.S. companies seeking to export or to invest in the countries of the former Soviet Union. A critical component of the program is the dissemination of information regarding market conditions and opportunities in various industries and countries of the former Soviet Union. These information products provided by BISNIS are in the form of e-mails, faxes, and paper mailers. The Publication Subscription form is a quick way for interested parties to tell BISNIS which products they want and their industry and country interests.

**II. Method of Collection**

Internet, fax, mail, or telephone.

**III. Data**

*OMB Number:* 0625–0236.
*Form Number:* None.
*Type of Review:* Regular Submission.
*Affected Public:* Business or other for-profit firms.
*Estimated Number of Respondents:* 2,040.
*Estimated Time Per Response:* 5 minutes.
*Estimated Total Annual Burden Hours:* 170 hours.
*Estimated Total Annual Costs:* The estimated annual cost for this collection is $8,500.00 ($5,950.00 for respondents and $2,550.00 for federal government).

**IV. Request for Comments**

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and costs) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 13, 2002.

**Madeleine Clayton,**

*Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 02–15376 Filed 6–18–02; 8:45 am]

**BILLING CODE 3510–DA–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–357–816]**

### Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Cold-Rolled Carbon Steel Flat Products from Argentina

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of amended preliminary antidumping duty determination of sales at less than fair value: cold-rolled carbon steel flat products from Argentina

**EFFECTIVE DATE:** June 19, 2002.

**FOR FURTHER INFORMATION CONTACT:** J. David Dirstine, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4033.

**SUPPLEMENTARY INFORMATION:**

**The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the provisions codified at 19 CFR Part 351 (2001).

**Significant Ministerial Error**

The Department of Commerce (the Department) is amending the preliminary determination of sales at less than fair value in the antidumping duty investigation of cold-rolled carbon steel flat products from Argentina to reflect the correction of two ministerial errors made in the margin calculations regarding Siderar S.A.I.C. (Siderar) in that determination, pursuant to 19 CFR 341.224(g)(1) and (g)(2). A ministerial error is defined as an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial. See 19 CFR 351.224(f). A significant ministerial error is defined as an error, the correction of which, singly or in combination with other errors, would result in (1) a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the original (erroneous) preliminary determination; or (2) a difference between a weighted-average dumping margin of zero or *de minimis* and a weighted-average dumping margin of greater than *de minimis* or vice versa. See 19 CFR 351.224(g). In this case, correction of the ministerial errors results in a reduction in the margin considered significant within the meaning of 19 CFR 351.224(g)(1). We are publishing this amendment to the preliminary determination pursuant to 19 CFR 351.224(e). As a result of this amended preliminary determination, we have revised the antidumping rates for the respondent, Siderar, and the all-others rate.

**Scope of Investigation**

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. For a full description of the scope of this investigation, please see the Scope Appendix attached to the affirmative preliminary determination in this proceeding. See *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Preliminary Negative Determination of Critical Circumstances: Certain Cold-Rolled*

*Carbon Steel Flat Products from Argentina*, 67 FR 31181 (May 9, 2002) (*Preliminary Determination*).

**Ministerial-Errors Allegation**

On May 9, 2002, the Department issued its affirmative preliminary determination in this proceeding. See Preliminary Determination. There is one respondent manufacturer/exporter, Siderar, in this investigation.

On May 3, 2002, the Department received timely allegations of ministerial errors (in accordance with section 351.224(c)(2) of the Department's regulations) in the *Preliminary Determination* from Siderar. Siderar alleged that the Department made an inadvertent programming error in calculating Siderar's interest expense by misplacing a decimal point in the calculations. Siderar also alleged that, although intended by the Department, non-prime home-market sales were inadvertently not excluded from the margin calculation.

The Department has reviewed its preliminary calculations and agrees that the errors which Siderar alleged do constitute ministerial errors within the meaning of 19 CFR 351.224(f). Furthermore, we determine that the change in the margin resulting from correcting these errors is significant pursuant to 19 CFR 351.224(g)(1). We are amending the *Preliminary Determination* to reflect the correction of these ministerial errors pursuant to 19 CFR 351.224(e). See the Siderar Amended Preliminary Calculation Memorandum from J. David Dirstine to the File, dated May 30, 2002.

The collection of bonds or cash deposits and suspension of liquidation will be revised accordingly.

**Amended Preliminary Determination**

As a result of our correction of the ministerial errors, we have determined that the following dumping margins apply. In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to continue to suspend liquidation of all imports of subject merchandise. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amounts as indicated in the chart below for subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

| Exporter/manufacturer | Weighted-average percentage margin |
|---|---|
| Siderar | 43.46 |
| | |
| All Others | 43.46 |

** As Siderar was the only respondent that we investigated, we used Siderar's margin as the all-others rate.

**International Trade Commission Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our amended preliminary determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of the preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

**Public Comment**

Case briefs for this investigation must be submitted to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal-brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will make our final determination no later than September 23, 2002.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: June 12, 2002

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 02–15479 Filed 6–18–02; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–821–815]**

### Postponement of the Final Determination of the Less-Than-Fair-Value Investigation of Certain Cold-Rolled Carbon Steel Flat Products from the Russian Federation

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of postponement of the final determination of the less-than-fair-value investigation of certain cold-rolled carbon steel flat products from the Russian Federation.

**SUMMARY:** The Department of Commerce is postponing the final determination of the less-than-fair-value investigation of certain cold-rolled carbon steel flat products from the Russian Federation. The Department will make its final determination not later than September 23, 2002.

**EFFECTIVE DATE:** June 19, 2002.

**FOR FURTHER INFORMATION CONTACT:** Juanita H. Chen at 202–482–0409 or James C. Doyle at 202–482–0159, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

**The Applicable Statute**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 C.F.R. Part 351 (2000).

**Background**

On May 9, 2002, the Department of Commerce (''Department'') published the notice of preliminary determination of sales at less than fair value for certain cold-rolled carbon steel flat products

from the Russian Federation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From the Russian Federation*, 67 FR 31241 (May 9, 2002) (''Preliminary Determination''). The final determination of this investigation is currently due no later than July 23, 2002. Pursuant to section 735(a)(2) of the Act, on May 30, 2002, the Ministry of Economic Development and Trade of the Russian Federation (''MEDT'') requested that the Department postpone its final determination in the investigation until 135 days after the date of the publication of the preliminary determination in the Federal Register. In addition, on June 3, 2002, MEDT requested that the Department extend the application of the provisional measures prescribed under 19 C.F.R. 351.210(e)(2) to not more than six months.

**Postponement of Final Determination and Extension of Provisional Measures**

In accordance with 19 C.F.R. 351.210(b), because (1) our preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting MEDT's request and are fully extending the time for the final determination, until no later than September 23, 2002. Suspension of liquidation will be extended accordingly.

Dated: June 12, 2002

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 02–15481 Filed 6–18–02; 8:45 am]

BILLING CODE 3510–DS–S

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–489–810]**

### Notice of Amended Preliminary Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Carbon Steel Flat Products From Turkey

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Amended Preliminary Determination of Sales at Less Than Fair Value.

**EFFECTIVE DATE:** June 19, 2002.

**FOR FURTHER INFORMATION CONTACT:** Melissa Blackledge, or Robert James, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at (202) 482–3518, or (202) 482–0649, respectively.

**SUPPLEMENTARY INFORMATION:**

**Applicable Statute and Regulations:**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Tariff Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to the regulations codified at 19 CFR part 351 (2001).

**Amendment to the Preliminary Determination**

On April 26, 2002, the Department determined that certain cold-rolled carbon steel flat products (cold-rolled steel) from Turkey are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Tariff Act. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Turkey*, 67 FR 31264 (May 9, 2002) (*Preliminary Determination*). On May 7, 2002, respondent Borcelik Celik Sanayii ve Ticaret A.S. (Borcelik) timely filed an allegation that the Department had made several ministerial errors in its preliminary determination. Borcelik requested that we correct the errors and publish a notice of amended preliminary determination in the **Federal Register**. See 19 CFR 351.224(e).

Borcelik's submission alleges the following errors:

- the Department inadvertently omitted programming language used to create a model data set for the home market sales file containing a single record for each CONNUM and month combination, thus obviating our intention to match sales by month;
- the Department inadvertently deducted billing adjustments 4 and 5 reported by affiliated reseller/service center Kerim Celik in the net price calculation when these adjustments should have been additions to revenue;
- for sales by Kerim Celik, total costs of producing the cold-rolled coil at Borcelik were unintentionally deducted by the Department rather than deducting the cost of further processing performed by Kerim Celik, reported as TOTCOP, and scrap (SCRAP);
- the Department used inaccurate exchange rates;
- the Department incorrectly recalculated Borcelik's G&A expense ratio excluding miscellaneous adjustments to G&A expenses reported by respondent;
- the Department relied upon total cost of production, instead of total cost of manufacturing, in calculating the twenty percent difference-in-merchandise test; and
- the Department unintentionally used the Turkish lira prices to calculate normal value, instead of using the U.S. dollar prices negotiated for most home market sales.

*See* Letter, Dickstein Shapiro Morin & Oshinsky LLP, May 7, 2002 *passim*.

The Department's regulations define a ministerial error as one involving ''addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication or the like, and any other similar type of unintentional error which the Secretary considers ministerial.'' 19 CFR 351.224(f). A significant ministerial error is defined as an error, the correction of which, singly or in combination with other errors, would result in (1) a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the original preliminary determination; or (2) a difference between a weighted-average dumping margin of zero or *de minimis* and a weighted-average dumping margin of greater than *de minimis* or vice versa. *See* 19 CFR 351.224(g).

After reviewing respondent's allegations we have determined, in accordance with 19 CFR 351.224(e), that the Preliminary Determination includes five ministerial errors, which together constitute significant ministerial errors. We agree that the following five allegations raised by Borcelik constitute significant ministerial errors: i) monthly model matching; ii) Kerim Celik's billing adjustments 4 and 5; iii) Kerim Celik's further processing costs; iv) improper exchange rates; and v) the calculation of differences in merchandise. *See* Memorandum For Richard Weible; ''Allegations of Ministerial Errors; Preliminary Determination in the Investigation of Certain Cold-Rolled Carbon Steel Flat Products from Turkey'' (Ministerial Errors Memorandum), dated June 12, 2002, a public version of which is on file in room B–099 of the main Commerce building, and the

*Preliminary Determination*, 67 FR at 31264.

The alleged ministerial errors with which we do not agree concern (1) the respondent's assertion that the Department inadvertently omitted miscellaneous adjustments from the revised G&A ratio and (2) the respondent's assertion that we unintentionally used the Turkish lira prices in calculating normal value. For a detailed description of all of these allegations and, where applicable, our resultant corrections, see the Ministerial Errors Memorandum. Therefore, in accordance with 19 CFR 351.224(e), we are amending the preliminary determination of the antidumping duty investigation of certain cold-rolled carbon steel flat products from Turkey to reflect the correction of significant ministerial errors made in the margin calculation regarding Borcelik. The revised weighted-average dumping margins are in the ''Amended Preliminary Determination'' section, below.

**Scope Of The Investigation**

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. For a full description of the scope of this investigation, as well as a complete discussion of all scope exclusion requests submitted in the context of the on-going cold-rolled steel investigations, see the ''Scope Appendix'' attached to the *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 67 FR 31181 (May 9, 2002).

**Amended Preliminary Determination**

We are amending the preliminary determination of the antidumping duty investigation of certain cold-rolled carbon steel flat products from Turkey to reflect the correction of the above-cited ministerial errors. The revised preliminary weighted-average dumping margins are as follows:

| Manufacturer/Exporter | Weighted-Average Margin |
|---|---|
| Borcelik Celik Sanayii ve Ticaret A.S. (Borcelik) | 7.70 % |
| All Others | 7.70 % |

**Suspension Of Liquidation**

In accordance with section 735(c)(1)(B) of the Tariff Act, we are directing the United States Customs Service (Customs) to continue suspending liquidation on all imports of the subject merchandise from Turkey. Customs shall require a cash deposit or the posting of a bond equal to the weighted-average amount by which normal value exceeds the export price as indicated in the chart above. These suspension-of-liquidation instructions will remain in effect until further notice.

**ITC Notification**

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission of our amended preliminary determination.

This determination is issued and published in accordance with section 733(f) and 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: June 12, 2002

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 02–15482 Filed 6–18–02; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–821–814]**

### Notice of Amended Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from the Russian Federation

**AGENCY:** Import Administration, International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice of Amended Final Determination of Sales at Less Than Fair Value.

**EFFECTIVE DATE:** June 19, 2002.

**SUMMARY:** We published in the Federal Register our final determination for the investigation of structural steel beams from the Russian Federation on May 20, 2002. We are amending our final determination to correct a ministerial error.

**FOR FURTHER INFORMATION CONTACT:** Hermes Pinilla or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3477 or (202) 482–4477, respectively.

**SUPPLEMENTARY INFORMATION:**

**The Applicable Statute**

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''Department's'') regulations are references to 19 CFR Part 351 (April 2001).

**Background**

On May 13, 2002, the Department determined that structural steel beams from the Russian Federation are being, or are likely to be, sold in the United States at less than fair value (67 FR 35490; May 20, 2002).

We disclosed our calculations for the final determination to counsel for petitioners, the Committee for Fair Beam Imports, on May 17, 2002, and to counsel for Nizhny Tagil Iron and Steel Works (Tagil) on May 15, 2002.

On May 23, 2002, we received a submission, timely filed pursuant to 19 CFR 351.224(c)(2), from the petitioners alleging a ministerial error in the Department's final determination. In its submission, the petitioners requested that this error be corrected and an amended final determination be issued reflecting this change.

**Scope of Investigation**

The scope of this investigation covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams (''W'' shapes), bearing piles (''HP'' shapes), standard beams (''S'' or ''I'' shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: (1) Structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors, or attachments to I- sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector, or attachment.

The merchandise subject to this investigation is currently classified in the *Harmonized Tariff Schedule of the United States* (HTSUS) at subheadings 7216.32.0000, 7216.33.0030,

7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

**Period of Investigation**

The period of investigation (POI) is October 1, 2000, through March 31, 2001.

**Ministerial Error**

The Department's regulations provide that the Department will correct any ministerial error by amending the final determination. See 19 CFR 351.224(e). Examples of ministerial errors according to the Department's regulations include mistakes in ''addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like.'' See 19 CFR 351.224(f).

**Ministerial-Error Allegation**

The petitioners allege that the Department erred with respect to the factor the Department used to calculate indirect selling expenses. They argue that the portion attributable to interest expenses should reflect the deduction of interest income and imputed credit expenses. The petitioners argue that in the preliminary determination the Department correctly revised Tagil's indirect selling expense factor to include a figure for interest expense, reduced by amounts for interest income and imputed credit expenses. However, according to the petitioners, during the U.S. sales verification, the verification team found an error with Tagil's original indirect selling expense factor calculation which consequently changed the amount of this factor. The petitioners assert that, as the Department did in the preliminary determination, it should have adjusted Tagil's revised indirect expense selling factor to include a figure for interest expense. Instead, according to the petitioners, the Department simply used the factor reported in the March 22, 2002, sales verification report. The petitioners request that the Department adjust Tagil's indirect selling expense factor to include a figure for interest expense and amend the final determination.

We agree with the petitioners that we made a clerical error with respect to this matter and have recalculated the margin for Tagil. The Department hereby amends its final determination with respect to Tagil to correct this error. For further details, see the analysis memorandum dated June 11, 2002.

**Amended Final Determination**

We are amending the final determination of sales at less than fair value for structural steel beams from the Russian Federation to reflect the correction of a ministerial error made in the margin calculations in that determination. We are publishing this amendment to the final determination pursuant to 19 CFR 351.224(e).

The revised weighted-average dumping margins are as follows:

| Exporter/Manufacturer | Weighted-Average Margin Percentage |
|---|---|
| Tagil | 239.82 |
| Russia-wide rate | 239.82 |

Because Tagil is the sole respondent in this investigation and the sole Russian producer or exporter with sales or shipments of subject merchandise to the United States during the POI, the recalculated margin for Tagil also applies to the Russia-wide rate. As a result of our amendment, the Russia-wide rate has also been amended and applies to all entries of the subject merchandise except for entries from Tagil.

**Suspension of Liquidation**

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of structural steel beams from the Russian Federation. The Customs Service shall require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margin shown above. Theses suspension-of-liquidation instructions will remain in effect until further notice.

**International Trade Commission Notification**

In accordance with section 735(d) of the Act, we have notified the International Trade Commission of our amended determination.

We are issuing and publishing this determination and notice in accordance with sections section 735(d) and 777(i) of the Act and 19 CFR 351.224(e).

Dated: June 12, 2002

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 02–15480 Filed 6–18–02; 8:45 am]

BILLING CODE 3510–DS–S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 061402A]**

### Gulf of Mexico Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting via conference call of the Spiny Lobster Advisory Panel (AP).

**DATES:** This meeting will be via conference call on July 2, 2002, beginning at 8 a.m. EST.

**ADDRESSES:** A listening station will be available at the National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, FL; Contact: Sophia Howard at 305–361–4285.

*Council address:* Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

**FOR FURTHER INFORMATION CONTACT:** Wayne Swingle, Executive Director, Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

**SUPPLEMENTARY INFORMATION:** The Spiny Lobster Advisory Panel (AP) will convene by conference call to review and comment on a proposed federal rule that would complement a rule drafted by the Florida Fish and Wildlife Conservation Commission (FFWCC). The proposed rule would allow vessels in transit to have on board an additional sublegal-size lobster for each trap aboard, in addition to the current limit of 50 sublegal-size lobsters. All such lobsters are held in aerated live wells. The proposed rule is being implemented by the framework procedure implemented by Spiny Lobster Amendment 2 approved by the NMFS October 27, 1989 (54 FR 48059). The procedure approved in the amendment by NMFS, the Council, and the state of Florida, allows implementation of this type of rule in the exclusive economic zone by the Regional Administrator (RA) of NMFS if he/she concurs that the rule is consistent with the goals and objectives of the fishery management plan (FMP), and with federal law. In making that decision, the RA considers the comments of the Councils. The Councils may consider the comments of the AP and the Scientific and Statistical

Committee (SSC) who are forwarded this proposal by the FFWCC, along with a copy of the administrative record for the state actions in approval of the state rule.

A copy of the agenda can be obtained by contacting the Council (*see* addresses above).

Although non-emergency issues not contained in the agenda may come before the Spiny Lobster AP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the MSFCMA, provided the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

The listening station is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (*see* **ADDRESSES**) by June 25, 2002.

Dated: June 14, 2002.

**Virginia M. Fay,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 02–15486 Filed 6–18–02; 8:45 am]

**BILLING CODE 3510–22–S**

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 11 a.m., Friday, July 5, 2002.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 02–15536 Filed 6–17–02; 9:10 am]

**BILLING CODE 6351–01–M**

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act; Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 11:00 a.m., Friday, July 12, 2002.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb. 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 02–15537 Filed 6–17–02; 8:45 am]

**BILLING CODE 6351–01–M**

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 11:00 a.m., Friday, July 19, 2002.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 02–15538 Filed 6–17–02; 9:10 am]

**BILLING CODE 6351–01–M**

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act; Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** Friday, July 26, 2002.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Jean A. Webb, 2020–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 02–15539 Filed 6–17–02; 9:10 am]

**BILLING CODE 6351–01–M**

## COMMODITY FUTURES TRADING COMMISSION

### In the Matter of the New York Mercantile Exchange, Inc. Petition for Treatment of Floor Brokers and Floor Traders as Eligible Commercial Entities and Eligible Contract Participants Pursuant to Sections 1a(11)(C) and 1a(12)(C) of the Commodity Exchange Act and the Intercontinental Exchange, Inc. Petition for Treatment of Floor Brokers and Floor Traders as Eligible Commercial Entities Pursuant to Section 1a(11)(C)

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Request for comment.

**SUMMARY:** The Commodity Futures Trading Commission (''Commission'') is requesting comment regarding a New York Mercantile Exchange, Inc. (''NYMEX'' or ''Exchange'') petition requesting a Commission determination that Exchange members who are registered with the Commission as either floor brokers or floor traders fall within the definitions of ''eligible contract participant'' as that term is defined in Section 1a(12) of the Commodity Exchange Act (''Act'') and ''eligible commercial entity'' as that term is defined in Section 1a(11) of the Act. Subject to trading restrictions and Exchange oversight as set forth in the petition, NYMEX asks that its floor brokers and floor traders (collectively referred to hereafter as ''floor members''), when they act for their own accounts and are guaranteed by an Exchange clearing member that is registered as a futures commission merchant (''FCM''), be permitted to: (1) Act as an eligible contract participant and enter into certain specified over-the-counter (''OTC'') transactions in exempt commodities, and (2) act as an eligible commercial entity and enter into certain specified transactions in exempt commodities on exempt commercial markets. The Commission is also requesting comment with respect to an Intercontinental Exchange, Inc. (''Intercontinental Exchange'') petition that requests that, subject to certain restrictions, the category of eligible commercial entity be expanded to include floor brokers and floor traders registered with the Commission or with the U.K. Financial Services Authority trading on an exempt commercial market. The Commission particularly asks for comments with respect to whether any response to the petitions should be tailored specifically to NYMEX and the Intercontinental

Exchange and to the narrow circumstances presented in the petitions or whether a response should be more broadly based and, thus, also applicable to other entities.

**DATES:** Comments must be received by July 5, 2002.

**ADDRESS:** Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, attention: Office of the Secretariat. Comments may be sent by facsimile transmission to 202–418–5521 or, by e-mail to *secretary@cftc.gov.* Reference should be made to ''ECP/ECE Petitions.''

**FOR FURTHER INFORMATION CONTACT:** Duane C. Andresen, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW., Washington, DC 20581. Telephone: 202–418–5492. E-mail: *dandresen@cftc.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Statutory Background

Section 1a(12) of the Act, as amended by the Commodity Futures Modernization Act of 2000 (''CFMA''), Pub. L. 106–554, which was signed into law on December 21, 2000, defines the term ''eligible contract participant'' (''ECP'') by listing those entities and individuals considered to be ECPs. ECPs that enter into OTC transactions [1] in an ''excluded commodity'' or an ''exempt commodity,'' as those terms are defined by the Act,[2] are not subject to various requirements of the Act.[3] The ECP definition directly includes floor brokers and floor traders only to the extent that the floor broker or floor trader acts ''in connection with any transaction that takes place on or through the facilities of a registered entity or an exempt board of trade, or any affiliate thereof, on which such person regularly trades.'' [4]

The Act, however, gives the Commission discretion to expand the ECP category as it deems appropriate. Specifically, Section 1a(12)(C) provides that the list of entities defined as ECPs shall include ''any other person that the Commission determines to be eligible in light of the financial or other qualifications of the person.''

Similarly, Section 1a(11) of the Act defines the term ''eligible commercial entity'' (''ECE'') by listing those ECPs that are qualified to be ECEs. Floor brokers and floor traders, even if determined to fall within the definition of ECP, do not qualify as ECEs, under the ECE definition, for the purpose of engaging in OTC transactions. The Act, however, gives the Commission discretion to expand the ECE category. Specifically, Section 1a(11)(C) provides that the list of entities defined as ECEs shall include ''such other persons as the Commission shall determine appropriate and shall designate by rule, regulation, or order.'' A determination under this provision that floor brokers and floor traders are considered ECEs would permit the floor brokers and floor traders to enter into transactions in exempt commodities on exempt commercial markets (''ECM'') pursuant to Section 2(h)(3) of the Act.[5]

## II. Eligible Contract Participants

### *1. The NYMEX Petition*

By letter dated May 23, 2002, NYMEX submitted a petition for a Commission interpretation pursuant to Section 1a(12)(C) of the Act.[6] Specifically, NYMEX, acting on behalf of Exchange floor members and member clearing firms, requested that the Commission make a determination pursuant to Section 1a(12)(C) of the Act that floor members, when acting in a proprietary capacity, may enter into certain specified OTC transactions in exempt commodities if such Commission registrants have obtained a financial guarantee for such transactions from an Exchange clearing member that is registered with the Commission as an FCM. NYMEX suggested that the permissible OTC transactions be limited to trading in a commodity that either (1) is listed only for clearing on the Exchange,[7] or (2) is listed for trading and clearing at the Exchange and where Exchange rules provide for the exchange of futures for swaps (''EFS'') in that contract.[8] NYMEX further proposed that such transactions would be subject to additional conditions and restrictions detailed in the petition and described below.

A. Public Interest Considerations

In its petition, the Exchange states that the requested determination is best considered against the overall context of the connection between the OTC and

[1] OTC transactions are transactions that are not executed on a trading facility. As defined in Section 1a(33)(A) of the Act, the term 'trading facility' generally means ''a person or group of persons that constitutes, maintains, or provides a physical or electronic facility or system in which multiple participants have the ability to execute or trade agreements, contracts, or transactions by accepting bids and offers made by other participants that are open to multiple participants in the facility or system.''

[2] Section 1a(14) defines the term ''exempt commodity'' to mean a commodity that is not an excluded commodity or an agricultural commodity. Section 1a(13) defines that term ''excluded commodity'' to mean, among other things, an interest rate, exchange rate, currency, credit risk or measure, debt instrument, measure of inflation, or other macroelectronic index or measure. Although the term ''agricultural commodity'' is not defined in the Act, section 1a(4) enumerates several agricultural-based commodities and products. The broadest types of commodities that fall into the exempt category are energy and metals products.

[3] Under Section 2(d)(1) of the Act, ECPs that enter into OTC transactions in excluded commodities are generally not subject to any provisions of the Act. Under Section 2(g) of the Act, ECPs that individually negotiate OTC transactions in exempt or excluded commodities are generally not subject to any provision of the Act. Under Section 2(h)(1) of the Act, ECPs that enter into OTC transactions in exempt commodities are generally not subject to any provisions of the Act other than certain anti-fraud and anti-manipulation provisions.

[4] Section 1a(12)(A)(x) of the Act.

[5] Under Section 2(h)(3), ECMs are markets that limit themselves to transactions: (1) in exempt commodities, (2) entered into on a principal-to-principal basis by ECEs, and (3) executed or traded on an electronic trading facility. An ECM is not a registered entity, but is required to notify the Commission of its intention to operate an electronic facility in reliance on the exemption set forth in Section 2(h)(3). The notification of operation as an ECM must include several certifications and, pursuant to Commission Regulation 36.3(c)(3), a representation that it will require each participant to comply with all applicable law and that it has a reasonable basis for believing that authorized participants are ECEs. ECM transactions are subject to certain of the Act's anti-fraud and anti-manipulation provisions.

[6] As discussed below, NYMEX also requested a Commission interpretation pursuant to Section 1a(11)(C) of the Act. By letter dated June 3, 2002, NYMEX supplemented its petition.

[7] By letter dated May 24, 2002, NYMEX filed rule changes that would implement an initiative to provide clearing services for specified energy contracts executed in the OTC markets. NYMEX certified that the rules comply with the Act and Commission Regulation 40.6. Under the initiative, NYNEX will list 25 contracts that will be entered into OTC and accepted for clearing by NYMEX, but will not listed for trading on the Exchange. In connection with the NYMEX initiative, on May 30, 2002, the Commission issued an Order pursuant to Section 4d of the Act. The Order provides that, subject to certain terms and conditions, the NYMEX Clearing House and FCMs clearing through the NYMEX Clearing House may commingle customer funds used to margin, secure, or guarantee transactions in futures contracts executed in the OTC markets and cleared by the NYMEX Clearing House with other funds held in segregated accounts maintained in accordance with Section 4d of the Act and Commission Regulations thereunder.

In its petition, NYMEX suggested a further limitation on floor members' permissible OTC transactions by not permitting, at this time, any OTC transactions on the three electricity commodities contracts included among the 25 identified contracts.

[8] EFS transactions are permitted at the Exchange pursuant to NYMEX Rule 6.21A, Exchange of Futures for, or in Connection with, Swap Transactions. The swap component of the transaction must involve the commodity underlying a related NYMEX futures contract, or a derivative, by-product, or related product of such a commodity. In furtherance of its effort to permit OTC clearing at the Exchange, NYMEX amended the rule to include as eligible EFS transactions ''any contract executed on the Exchange that the Exchange has designated as eligible for clearing at the Exchange.'' Currently, NYMEX permits EFS transactions in the following commodities: Natural Gas, NYMEX Brent Crude Oil, and Aluminum.

exchange markets, and that it is good public policy for the Commission to permit the strengthening of these ties when it is possible to do so. The Exchange includes the requested determination among a number of initiatives intended to better serve the OTC community as part of the Exchange's goal of becoming the ''one-stop shop for the entire energy industry.'' The petition states that NYMEX has concluded that the ability of its floor members to trade OTC transactions pursuant to an FCM guarantee, particularly OTC swaps involving NYMEX or NYMEX ''look-alike'' products, is a pivotal component, for the four reasons described below, of the Exchange's business strategy to better serve its customers.

First, NYMEX states that the ability of its floor members to enter into OTC swaps would enhance their function in providing liquidity to the Exchange's markets. Floor members would increase their access to trading information in the ''upstairs'' or OTC markets, and this increased informational flow would assist floor members in maintaining tight bid-ask spreads with respect to Exchange-traded products that compete or have strong price relationships with OTC products. Second, NYMEX states that the ability of its floor members to make tight markets in new Exchange products that would compete against the standardized look-alike contracts traded in the OTC markets would be enhanced. In this regard, the petition states that 80 to 90 percent of energy swap transactions involve standardized economic terms.

Third, NYMEX states that its floor members would be able to enter into EFS transactions with OTC counterparties, thereby expanding the pool of potential counterparties for OTC market participants and facilitating liquidity in the OTC marketplace. Finally, with respect to the clearing of OTC transactions, the Exchange intends that the open positions in futures contracts created by the exchange of an OTC swap for a NYMEX future would be offset by an opposite transaction in the OTC market, thus providing a larger pool of market participants who would enter into a transaction initiating or liquidating a position on the Exchange.

With respect to the economic impact on OTC markets, the petition states that permitting floor members to trade OTC transactions would increase competition and efficiency, enhance price discovery, and reduce the liquidity risk and the resultant increased market risk that arises from artificial barriers to entry in the markets. NYMEX states that floor members participating in the OTC markets would perform the same functions they perform in the Exchange market including, among others, enhancing price discovery through the speed and efficiency of market adjustment to new fundamentals and facilitating adjustment of the market price to new information.

B. NYMEX's Analysis of the ECP Definition

In its petition, NYMEX contends that Section 1a(12) of the Act supports its requested treatment of floor members as ECPs for a number of reasons. First, NYMEX states that the treatment of floor brokers and floor traders under the Section 1a(12) ECP definition appears to be inconsistent in that it treats floor brokers and floor traders differently based upon how they organize their businesses. Specifically, floor brokers and floor traders who operate as natural persons are only considered ECPs if they satisfy a total asset standard.[9] By comparison, floor members that are organized as partnerships or proprietorships are considered ECPs if they are guaranteed by a specified entity and are not required to meet any total asset requirement.[10] The Exchange represents that floor trader registrations are generally made in the name of the individual and that exchange membership or seat ownership historically has been held in the name of one individual.[11]

Second, the petition states that the treatment of floor brokers and floor traders under Section 1a(12) is inconsistent with the treatment of brokers or dealers or foreign persons (performing similar roles or functions subject to foreign regulation) who are natural persons or proprietorships. The latter entities may be considered to be ECPs by meeting either the total assets test of Section 1a(12)(xi) or satisfying one of the provisions of 1a(12)(v). Thus, Section 1a(12) permits a broker or dealer or foreign person operating as a natural person, but not a floor broker or floor trader similarly operating, to trade OTC products pursuant to Section 1a(12)(v) with a guarantee from one of the specified entities without meeting any total asset requirements.

Third, NYMEX contends that floor members with FCM guarantees should be considered ECPs because the Act permits other entities to use guarantees as a substitute for a total assets requirement in meeting the ECP definition. Specifically, NYMEX states that the Act permits a corporation, partnership, proprietorship, organization, trust, or other entity to obtain a guarantee or support via a letter of credit from a financial institution, insurance company, investment company, commodity pool, or governmental entity. Finally, NYMEX argues that it is reasonable for floor brokers and floor traders to rely on FCMs as guarantors. Under Section 1a(12)(A)(v), ''a corporation, partnership, proprietorship, organization, trust, or other entity'' may be considered an ECP if it is guaranteed by a commodity pool with more than $5 million in total assets. NYMEX points out that commodity pools generally are not in the business of conducting risk management for or providing guarantees in connection with trading in the OTC markets. NYMEX states that if commodity pools are allowed to provide guarantees, then FCMs, who are in the business of monitoring trading by the Exchange members that they guarantee, should be permitted to provide such guarantees for floor members. NYMEX states that its rules provide that each Exchange clearing member registered as an FCM must maintain minimum working capital of at least $5 million.[12]

[9] Section 1a(12)(A)(xi) provides that an individual who meets either of two total asset tests is an ECP. An individual must either have total assets in an amount in excess of $10,000,000 or of $5,000,000 and enter ''into the agreement, contract, or transaction in order to manage the risk associated with an asset owned or liability incurred, or reasonably likely to be owned or incurred, by the individual.''

[10] Section 1a(12)(A)(v) provides that a corporation, partnership, proprietorship, organization, trust, or other entity that meets one of three tests is an ECP. The entity must either (1) have total assets exceeding $10,000,000; (2) have its obligations guaranteed or otherwise supported by (subject to total assets or other requirements) a financial institution, insurance company, investment company, or commodity pool, or governmental entity; or (3) have a net worth exceeding $1,000,000 and enter ''into an agreement, contract, or transaction in connection with the conduct of the entity's business or to manage the risk associated with an asset owned or liability incurred or reasonably likely to be owned or incurred by the entity in the conduct of the entity's business.''

[11] As indicated above, the only provision of the ECP definition that specifically refers to floor brokers or floor traders is Section 1a(12)(A)(x). NYMEX['s argument on this point is premised on the assumption that floor brokers and floor traders may alternatively qualify as ECPs under provisions of the ECP definition that specifically refer to ''a corporation, partnership, proprietorship, organization, trust, or other entity'' (Section 1a(12)(A)(v)) and to ''an individual'' (Section 1a(12)(A)(xi)). In publishing the request for comment on NYMEX's petition, the Commission is neither accepting nor rejecting the Exchange's interpretation of the ECP definition.

[12] Pursuant to NYMEX Rule 9.21(B), each clearing member registered with the Commission as an FCM must have and maintain minimum working capital equal to or in excess of the greater of $5 million or the amount prescribed in Commission Regulation 1.17.

C. Trading Restrictions and Exchange Oversight

In its petition, NYMEX represents that it would have appropriate compliance systems in place to monitor OTC trading by Exchange floor members. Because all the permissible OTC trading subsequently would be cleared at the Exchange, NYMEX would be able to obtain information concerning the OTC transactions as part of a review of the EFS transaction bringing the transaction to the Exchange for clearing. Failure to comply with a request to provide such information pursuant to the Exchange's EFS rules would result in a referral to the Exchange's Business Conduct Committee for further action.

NYMEX also suggested that, consistent with the standards which already apply to floor members with respect to their trading on the Exchange, the Commission should provide that floor members' transactions in the permissible contracts that are not executed on a trading facility be executed only pursuant to the Section 2(h)(1) exemption.[13] As indicated above, all Section 2(h)(1) transactions would be subject to the Commission's anti-fraud and anti-manipulation prohibitions.[14] Finally, the Exchange represented that it would agree, as a condition for participating in the OTC markets, to limit OTC trading by floor brokers and floor traders such that the counterparties to their trades must not be floor brokers or floor traders for contracts that are listed for trading on the Exchange, such as in connection with an OTC natural gas swap to be exchanged for a futures position in the NYMEX Natural Gas futures contract.

**III. Eligible Commercial Entities**

*1. The NYMEX Petition*

In its petition, NYMEX also requested that the Commission make a determination pursuant to Section 1a(11)(C) of the Act that floor members, when acting in a proprietary capacity, may also be considered to be ECEs when they enter into certain specified transactions. Such a determination would permit NYMEX floor members to enter into transactions in exempt commodities on ECMs pursuant to Section 2(h)(3) of the Act.[15] NYMEX stated that floor members permitted to enter into transactions as ECEs would be subject to the same previously-described conditions and restrictions applicable to floor members permitted to enter OTC transactions as ECPs, except that NYMEX did not propose that floor brokers and floor traders acting as ECEs be subject to the counterparty limitation. NYMEX states that it does not intend to limit floor brokers and floor traders acting as ECEs and trading on ECMs to counterparties other than floor brokers and floor traders because ECMs may permit transactions to be conducted anonymously between counterparties and the Exchange would have no effective means to ensure compliance with a counterparty restriction.[16]

As additional support for its request for a determination that floor members be able to trade as ECEs on ECMs, NYMEX states that floor members, if determined to be ECPs, would meet the requirements of Section 1a(11)(A) of the Act in that the floor members provide risk management and market-making activities in energy and metals derivatives products. NYMEX further stated that allowing floor members with an FCM guarantee to execute transactions as ECEs on ECMs would simply be an extension of the services that floor members currently provide to users of NYMEX's markets.

*2. The Intercontinental Exchange Petition*

By letter dated June 3, 2002, the Intercontinental Exchange[17] requested that the Commission issue an Order pursuant to Section 1a(11) of the Act that would expand the ECE category to include floor brokers and floor traders registered in the U.S. as such or with the U.K. Financial Services Authority (''FSA''). Intercontinental Exchange stated that including floor brokers and floor traders as ECEs would be consistent with the CFMA and would recognize their value as both liquidity providers and dealers and market makers.

In its petition, Intercontinental Exchange commented that the Commission has previously included floor brokers and floor traders in the definition of ECE as it relates to trading on a Derivatives Transaction Execution Facility (''DTEF''). Specifically, Commission Regulation 37.1(b) states that, for the purpose of DTEF trading, ''the term 'eligible commercial entity' means, and shall include, in addition to a party or entity so defined in Section 1a(11) of the Act, a registered floor trader or floor broker trading for its own account, whose trading obligations are guaranteed by a registered futures commission merchant.'' The petition states that there is no meaningful distinction between allowing floor brokers and floor traders to trade as ECEs on a DTEF and allowing them to trade as ECEs on an ECM.[18]

The petition states that, in addition to U.S. registered floor brokers and floor traders, the ECE definition should include local member floor traders who are authorized persons under the U.K.''s Financial Services and Markets Act of 2000 (''FSMA''). As described in the petition, local members can be individuals or corporations. To become authorized persons they must, among other things, meet fitness and proper standards, have competent and prudent management, and conduct their affairs with due skill, care, and diligence. An authorized person is subject to FSA rules, including capital and conduct of business requirements. Intercontinental Exchange states that the IPE monitors the activities of local members and has the authority to sanction them in the event of improper conduct. In addition, Intercontinental Exchange represents that the IPE would cooperate with the Intercontinental Exchange and with any other exchange on which its local members may trade or on which its products or similar products may be traded. Such cooperation would include intermarket surveillance.

In the petition, Intercontinental Exchange proposed that the following be included in a definition of ECE for trading on ECMs:

(1) U.S. registered floor brokers or floor traders or a U.K. authorized local member floor trader (the floor broker or floor trader is not required to have any connection or experience trading in the underlying commodity);

[13] To qualify for the Section 2(h)(1) exemption, the transaction must: (1) Be in an exempt commodity, (2) be entered into by ECPs, and (3) not be entered into on a trading facility.

[14] See supra note 3.

[15] NYMEX represents that all of the permissible trading on ECMs would subsequently be cleared at the Exchange.

[16] ECMs that do not provide for the clearing of transactions, however, may require traders to pre-approve those counterparties against whom they will accept bids or offers. Thus, it may be possible for floor brokers or floor traders to specify the potential entities that are acceptable counterparties.

[17] The Intercontinental Exchange operates an OTC commodities trading platform for energy and metals and is itself an ECM. Intercontinental Exchange submitted its notice of operation as an ECM to the Commission on December 27, 2001. Intercontinental Exchange also owns the International Petroleum Exchange (''IPE''), a U.K. futures exchange for the trading of energy futures products.

[18] DTEFs are registered with the Commission and generally must meet various standards of operation set forth in Section 5a of the Act and Part 37 of the Commission's Regulations and are subject to the Commission's regulatory oversight. By comparison, ECMs are exempt from Commission regulatory oversight. While ECMs must submit to the Commission a notice of operation that satisfies the filing requirements of Section 2(h)(5) of the Act and Commission Regulation 36.3, EMCs are not ''registered with, or designated, recognized, licensed or approved by the Commission.'' See Section 2(h)(5) of the Act.

(2) the floor broker or floor trader must be a member of a designated contract market (''DCM'') or a U.K. futures exchange or otherwise have trading privileges on a DCM or a U.K. futures exchange;

(3) the floor broker or floor trader must have as a part of its business the business of acting as a floor broker or floor trader; and

(4) the floor broker or floor trader is an ECP or, if the floor broker or floor trader is not an ECP, its trades must be guaranteed by a clearing member of a U.S. or U.K. recognized clearing organization.

**IV. Request for Comment**

The Commission generally invites public comment on both the NYMEX and Intercontinental Exchange petitions and on whether the Commission should determine that floor brokers and floor traders are ECPs and/or ECEs and, therefore, be permitted to execute transactions in exempt commodities in certain markets. The Commission also invites public comment on what, if any, standards and conditions should be applied in the event of such a determination. The Commission particularly asks for comments with respect to whether any response to the petitions should be tailored specifically to NYMEX and the Intercontinental Exchange and to the narrow circumstances presented in the petitions or whether a response should be more broadly based and, thus, also applicable to other entities. Finally, the Commission requests comment on the following aspects of the NYMEX and Intercontinental Exchange petitions.

1. As noted above, NYMEX's petition would limit OTC trading by floor brokers and floor traders acting as ECPs such that the counterparties to their trades must not be floor brokers or floor traders. NYMEX stated that it did not intend for this limitation to apply to floor brokers and floor traders acting as ECEs and trading on ECMs. In support of this determination, NYMEX stated that the Exchange could not ensure compliance with the counterparty restriction because ECMs may permit transactions to be conducted anonymously between counterparties. The Commission understands, however, that at some ECMs, traders have the capability of specifying the entities that are acceptable counterparties. In light of this capability, the Commission asks whether it would be reasonable and prudent to maintain a restriction on eligible counterparties, at least with respect to ECMs that provide for such a counterparty pre-approval mechanism.

2. The Commission notes that the NYMEX and Intercontinental Exchange petitions reflect different terms and conditions with respect to floor brokers and floor traders acting as ECEs. Based upon these distinctions, the Commission requests comments regarding whether the transactions that could be entered into by floor brokers and floor traders as ECEs on ECMs should be limited to any of the following: (a) Specifically identified contracts; (b) transactions that would be cleared; (c) commodities in which the floor broker or floor trader had trading expertise; (d) transactions for which the floor broker or floor trader was guaranteed by an Exchange clearing member; or (e) in some other way.

3. In its petition, Intercontinental Exchange states that there would be no meaningful distinction between allowing floor brokers and floor traders to trade as ECEs on a DTEF, as the Commission has already permitted, as compared to trading as ECEs on an ECM. The Commission requests comment on this assertion, and particularly on whether there should be any distinction in the treatment of floor brokers and floor traders as ECEs based upon the different regulatory regimes applicable to DTEFs and ECMs.[19]

4. In addition to U.S. registered floor brokers and floor traders, Intercontinental Exchange's petition requests ECE treatment for U.K. authorized local member floor traders. Intercontinental Exchange's petition also broadly describes the qualification requirements that such floor traders are subject to under the FSMA. The Commission seeks general comment on whether ECE treatment should be extended to any non-U.S. registrants and, if so, what standards the Commission should use to evaluate the qualifications of such persons.

Issued in Washington, DC on June 13, 2002 by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 02–15372 Filed 6–18–02; 8:45 am]

**BILLING CODE 6351–01–P**

[19] See supra note 18.

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### HQ USAF Scientific Advisory Board

**AGENCY:** Department of the Air Force, DoD.

**ACTION:** Notice of Meeting.

**SUMMARY:** Pursuant to Public Law 92–463, notice is hereby given of the forthcoming meeting of the AF Scientific Advisory Board Predictive Battlespace Awareness (PBA) Executive Panel and Panel Chairs. The purpose of the meeting is to allow the panel chairs to report to the executive panel on the status of their portions of the PBA study; to receive the Joint Staff/J2 perspective on PBA; and to plan the remainder of the study. Because the briefings and discussion are classified, this meeting will be closed to the public.

**DATES:** 21 May 02 (0800–1630 EST).

**ADDRESSES:** A-Team Conference & Innovation Center, 1560 Wilson Blvd., Suite 400, Rosslyn, VA 22209.

**FOR FURTHER INFORMATION CONTACT:** Colonel Marian Alexander, Air Force Scientific Advisory Board Secretariat, 1180 Air Force Pentagon, Rm 5D982, Washington DC 20330–1180, (703) 697–4811.

**Pamela D. Fitzgerald,**

*Air Force Federal Register Liaison Officer.*

[FR Doc. 02–15472 Filed 6–18–02; 8:45 am]

**BILLING CODE 5001–05–P**

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Rocky Flats

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

**DATE:** Thursday, July 11, 2002, 6 p.m. to 9:30 p.m.

**ADDRESS:** Jefferson County Airport Terminal Building, Mount Evans Room, 11755 Airport Way, Broomfield, CO.

**FOR FURTHER INFORMATION CONTACT:** Ken Korkia, Board/Staff Coordinator, Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO, 80021; telephone (303) 420–7855; fax (303) 420–7579.

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

**Tentative Agenda**

1. Quarterly update on Rocky Flats issues, provided by a representative

from the Defense Nuclear Facilities Safety Board.
2. Update on site health and safety issues.
3. Presentation on current ideas for remediation of old process waste lines and subsurface contamination.
4. Continuing roundtable discussion with DOE representatives and regulators on Rocky Flats end-state issues.
5. Other Board business may be conducted as necessary.

*Public Participation:* The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

*Minutes:* The minutes of this meeting will be available for public review and copying at the Public Reading Room located at the Office of the Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminister, CO 80021; telephone (303)420–7855. Hours of operations for the Public Reading Room are 9:00 a.m. to 4:00 p.m., Monday -Friday, except Federal holidays. Minutes will also be made available by writing or calling Deb Thompson at the address or telephone number listed above.

Issued at Washington, DC on June 13, 2002.

**Rachel M. Samuel,**

*Deputy Advisory Committee Management Officer.*

[FR Doc. 02–15422 Filed 6–18–02; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### International Energy Agency Meeting

**AGENCY:** Department of Energy.

**ACTION:** Notice of meeting.

**SUMMARY:** The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet on June 26, 2002, at the headquarters of the IEA in Paris, France in connection with a meeting of the IEA's Standing Group on Emergency Questions (SEQ).

**FOR FURTHER INFORMATION CONTACT:** Samuel M. Bradley, Assistant General Counsel for International and National Security Programs, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202–586–6738.

**SUPPLEMENTARY INFORMATION:** In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)) (EPCA), the following notice of meeting is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the headquarters of the IEA, 9, rue de la Fédération, Paris, France, on June 26, 2002, beginning at approximately 8:30 a.m. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's Standing Group on Emergency Questions (SEQ), which is scheduled to be held at the IEA on June 26, beginning at 9:00 a.m., including a preparatory encounter among company representatives from approximately 8:30 a.m. to 9:00 a.m.

The Agenda for the preparatory encounter among company representatives is to elicit views regarding items on the SEQ's Agenda. The Agenda for the SEQ meeting is under the control of the SEQ. It is expected that the SEQ will adopt the following Agenda:

1. Adoption of the Agenda
2. Approval of the Summary Record of the 104th Meeting
3. Emergency Response Training and Simulation Exercise
   —Report and Evaluation of the Emergency Response Training and Simulation Exercise 2002 (ERE 2), Phases 1 and 2
   —Plans for Phase 3
4. The SEQ Program of Work for 2003–2004
   —Proposal for Study on Oil Demand Restraint in Transport in the Context of Emergency Response
5. Transition from CERM (Coordinated Emergency Response Measures) to IEP (International Energy Program)
6. Update on Compliance with IEP Stockholding Commitments
7. IEA Reporting Procedures
   —Emergency Reserve and Net Import Situation of IEA Countries on April 1, 2002
   —Monthly Oil Statistics—April 2002
   —Oil Market Transparency Initiatives
8. The Current Oil Market Situation
   —Oral Report by the Secretariat
9. Policy and Legislative Developments in Member Countries
   —Japan
   —Finland
   —Others
10. Report on Developments in Non-Member Countries and International Organizations
   —Recent activities of ACOMES
   —Oil Stockholding Seminar in Southeastern Europe
   —Preparation for a Joint IEA/China Seminar on Oil Stocks and Emergency Response
   —Others
11. Current IAB Activities
   —Oral Report by the IAB Chairman
12. Other Emergency Response Activities
   —Results of the Oil Stock Maximum Drawdown Capacity Questionnaire
   —Results of the Communication Test of Spring 2002
13. Emergency Response Reviews of IEA Countries
   —Revised Schedule of Emergency Response Reviews for 2002–2003
14. Other Documents for Information
   —Emergency Reserve Situation of IEA Candidate Countries on April 1, 2002
   —BPFC (Base Period Final Consumption) 2Q2000/1Q2002
   —QOF—2Q2002
   —Panel of Arbitrators: Country List
   —IEA Dispute Settlement Center : Panel of Arbitrators
   —Addendum to Re-issue of Emergency Management Manual
   —Update of Emergency Contacts List
15. Discussion on the Initial Contingency Response Plan
16. Other Business
   —Dates of Next Meetings:
   —November 12–15, 2002
   —March 18–20, 2003

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), this meeting is open only to representatives of members of the IAB and their counsel; representatives of members of the SEQ; representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission; and invitees of the IAB, the SEQ, or the IEA.

Issued in Washington, DC, June 13, 2002.

**Eric J. Fygi,**

*Deputy General Counsel.*

[FR Doc. 02–15421 Filed 6–18–02; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP02–360–000]**

## Algonquin Gas Transmission Company; Notice of Refund Report

June 12, 2002.

Take notice that on June 5, 2002, Algonquin Gas Transmission Company (Algonquin) tendered for filing a refund report of a flow through refund received on April 10, 2002 from Texas Eastern Transmission, LP (Texas Eastern) of a Take-or-Pay Refund, in Docket No. RP02–229. Algonquin reports that it is flowing through the appropriate amounts to its Customers as credits on their May 7, 2002 invoices.

Algonquin states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before June 19, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15415 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. CP91–1794–003]**

## CMS Trunkline Gas Company, LLC; Notice of Amendment

June 12, 2002.

Take notice that on June 3, 2002, CMS Trunkline Gas Company, LLC (Trunkline), P. O. Box 4967, Houston, Texas 77210–4967, and Gulf South Pipeline Company, LP (Gulf South) filed in Docket No. CP91–1794–003, a joint application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act (NGA), as amended, and Part 157 of the Federal Energy Regulatory Commission's Regulations (Commission), for authorization for a second amendment of the existing Operating Lease Agreement dated May 11, 1993, all as more fully set forth in the application which is on file with the Commission and open to public inspection. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance).

Trunkline requests authority to amend the authorization previously granted in Docket No. CP91–1794–002 in order to implement the Second Amendment (dated May 9, 2002) to the Operating Lease Agreement between Trunkline and Gulf South, and to amend other terms and conditions as necessary. Authorization is also being sought for Gulf South to abandon by lease to Trunkline an additional 25,000 Dth per day of capacity effective October 1, 2002. Trunkline states that under the Second Amendment, the Points of Receipt and Delivery will remain and that no new construction or modification to the existing interconnecting facilities at Olla or Centerville will be required to accommodate the increased quantity. The term of the Operating Lease Agreement will be extended for an additional five years beginning October 1, 2002 and continuing until September 30, 2007.

Any questions concerning this application may be directed to William W. Grygar, Vice President of Rates and Regulatory Affairs, CMS Trunkline Gas Company, LLC, 5444 Westheimer Road, Houston, Texas 77056–5306 at (713) 989–7000, or J. Kyle Stephens, Director of Certificates, Gulf South Pipeline Company, LP, 20 East Greenway Plaza, Suite 900, Houston, Texas 77046, at (713) 544–7309.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before July 3, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15404 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket Nos. RP00–486–001 and RP01–40–002]**

## Cove Point LNG Limited Partnership; Notice of Compliance Filing

June 12, 2002.

Take notice that on May 31, 2002, Cove Point LNG Limited Partnership (Cove Point), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of July 1, 2002:

Second Revised Sheet No. 100
Second Revised Sheet No. 126
Second Revised Sheet No. 127
First Revised Sheet No. 128
Original Sheet No. 128A
Original Sheet No. 128B
Third Revised Sheet No. 129
First Revised Sheet No. 130
First Revised Sheet No. 134
First Revised Sheet No. 135
Original Sheet No. 135A
Second Revised Sheet No. 139
First Revised Sheet No. 141
Original Sheet No. 141A

Cove Point states that the filing is made in compliance with the Commission's Order on Compliance with Order Nos. 637, 587–G, and 587–L issued on May 1, 2002 in the referenced dockets.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before June 18, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15410 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. PR02–19–000]**

## Dow Interstate Gas Company; Notice of Petition for Rate Approval

June 12, 2002.

Take notice that on May 31, 2002, Dow Intrastate Gas Company (DIGCO) filed, pursuant to Section 284.123(b)(2) of the Commission's Regulations, a petition for rate approval for transportation services rendered pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA). DIGCO proposes a system-wide maximum interruptible transportation rate of $0.0407 per MMBtu and 0.2% in-kind fuel reimbursement.

DIGCO's petition states that it is an intrastate pipeline company within the meaning of Section 2(16) of the NGPA, 15 U.S.C. § 3301(16). DIGCO provides interruptible transportation service pursuant to Section 311(a)(2) of the NGPA through its facilities located in Louisiana.

Pursuant to section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the date of this filing, the rates will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed with the Secretary of the Commission on or before June 27, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This petition for rate approval is on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15408 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. GT02–29–000]**

## Enbridge Offshore Pipelines (UTOS) LLC; Notice of Proposed Changes in FERC Gas Tariff

June 12, 2002.

Take notice that on June 4, 2002, Enbridge Offshore Pipelines (UTOS) LLC, formerly U-T Offshore System, L.L.C. (UTOS) tendered for filing to amend its FERC Gas Tariff, Fifth Revised Volume No. 1, First Revised Sheet No. 164, to be made effective July 1, 2002.

UTOS states that the purpose of the filing was to correct an error resulting from UTOS's filing of Fifth Revised Volume No. 1 of its FERC Gas Tariff on February 12, 2002 in FERC Docket No. GT02–10–000. The omission happened because the FERC Fastr System denoted both First Revised Sheet No. 95 and Sub Second Revised Sheet No. 95 (both contained in Fourth Revised Volume No. 1) as being effective, UTOS made the changes noted above and filed it with the Commission, it did not file the General Terms and Conditions language shown on Sub Second Revised Sheet No. 95.

UTOS states that copies of its filing has been sent to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15406 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP00–466–001, and RP00–618–002]**

### Enbridge Offshore Pipelines (UTOS) LLC; Notice of Compliance Filing

June 12, 2002.

Take notice that on May 31, 2002, Enbridge Offshore Pipelines (UTOS) LLC, formerly U–T Offshore System, L.L.C., (UTOS) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the revised tariff sheets listed in Appendix A to the filing, with an effective date of July 1, 2002.

UTOS states that the filing is being made in compliance with the Commission's Order on Compliance with Order Nos. 587–G, 587–L, 637 and 637–A issued on May 1, 2002, in these proceedings.

UTOS states that complete copies of its filing are being mailed to all of the parties on the Commission's Official Service list for these proceedings, all of its jurisdictional customers, and applicable State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before June 18, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15409 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP02–361–000]**

### Gulfstream Natural Gas System, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

June 12, 2002.

Take notice that on June 3, 2002, Gulfstream Natural Gas System. L.L.C. (Gulfsteam) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of June 1, 2002:

First Revised Sheet No. 8
Original Sheet No. 8A
Original Sheet No. 8B

Gulfstream states that it is filing the above tariff sheets to implement five negotiated rate agreements pursuant to Rate Schedule FTS and Section 31 of the General Terms and Conditions of Gulfstream's FERC Gas Tariff. Gulfstream states that it is also filing related letter agreements with certain of its initial firm shippers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15416 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER02–1900–001]**

### New York Independent System Operator, Inc.; Notice of Filing

June 13, 2002.

Take notice that on May 24, 2002, the New York Independent System Operator, Inc. (NYISO) filed revisions to its Market Administration and Control Area Services Tariff (Services Tariff). On May 28, 2002 the NYISO sent an attached Memo from Paul Shortley to Mike Calimano that was inadvertently left out of the filing. The NYISO is requesting that the Memo is treated as part of the original filing.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

*Comment Date*: June 21, 2002.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15401 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP02–363–000]**

### North Baja Pipeline LLC; Notice of Compliance Tariff Filing

June 12, 2002.

Take notice that on June 6, 2002, North Baja Pipeline LLC (NBP) tendered for filing its actual FERC Gas Tariff, Original Volume No. 1, in compliance with ordering paragraph D of the Commission's May 18, 2001, Preliminary Determination on Non-Environmental Issues (Preliminary Determination) 95 FERC ¶ 61,259. These actual tariff sheets reflects modifications to NBP's originally filed Pro Forma FERC Gas Tariff to bring it into compliance with current NAESB standards, all the requirements in Order Nos. 637, 637–A, and 637–B and subsequent orders, and any other tariff regulations currently in effect. Additional tariff modifications have been made as indicated in NBP's filing. In addition, NBP has requested waiver of the Preliminary Determination requirement that NBP revise its initial rates in order to reflect any change in its cost of long-term debt. NBP requested that the Commission allow it to delay restating its maximum recourse rates until it has secured long-term debt financing, which is expected to occur by the end of February 2003.

NBP anticipates that its 79.8-mile natural gas pipeline will be placed into partial service as early as mid-August 2002 and requests an effective date of August 12, 2002, for these actual tariff sheets.

NBP states that a copy of this filing has been served upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15418 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP02–162–000]**

### Northern Natural Gas Company; Notice of Application

June 13, 2002.

Take notice that on April 18, 2002, Northern Natural Gas Company (Northern), filed in Docket No. CP02–162–000, a request pursuant to Section 7(b) of the Natural Gas Act (NGA), as amended, and the Rules and Regulations of the Federal Energy Regulatory Commission (Commission), requesting permission and approval to abandon service under an individually certificated agreement, all as more fully set forth in the application which is on file with the Commission, and open to public inspection. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance).

Specifically, Northern proposes to abandon service to Metropolitan Utilities District of Omaha (MUD) under Rate Schedule T–4, contained in its FERC Gas Tariff, Original Volume No. 2. The agreement has terminated pursuant to its terms.

Any questions regarding this application should be directed to Michael W. McGowan, Vice President, Certificates and Reporting for Northern, 111 South 103rd Street, Omaha, Nebraska 68124, at (402)398–7110 or Bret Fritch, Senior Regulatory Analyst, at (402)398–7140.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before July 5, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedures, a hearing will be held without further notice before the Commission on this application if no protests or motions to intervene is filed within the time required herein. At that time, the Commission, on its own review of the matter, will determine whether granting the Abandonment is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15399 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP02–362–000]**

### PG&E Gas Transmission, Northwest Corporation; Notice of Proposed Changes in FERC Gas Tariff

June 12, 2002.

Take notice that on June 6, 2002, PG&E Gas Transmission, Northwest Corporation (GTN) tendered for filing as

part of its FERC Gas Tariff, First Revised Volume No. 1-A, the following tariff sheets to become effective July 6, 2002:

Sixth Revised Sheet No. 68
Second Revised Sheet No. 68A
First Revised Sheet No. 68B
Fourth Revised Sheet No. 69

GTN states that the purpose of this filing is to establish the procedures so GTN may enter into pre-arranged service agreements with any party for available unsubscribed capacity or capacity that becomes available and is not subject to a right of first refusal.

GTN states that copies of its filing has been served upon its customers and interested state regulatory commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15417 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP02–357–000]**

## Questar Pipeline Company; Notice of Tariff Filing

June 12, 2002.

Take notice that on June 7, 2002, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to be effective July 7, 2002:

Third Revised Sheet No. 1B
Original Sheet No. 1C
Thirteenth Revised Sheet No. 6
Sixth Revised Sheet No. 96
Fourth Revised Sheet No. 112
Fifth Revised Sheet No. 165
Sixth Revised Sheet No. 167
First Revised Sheet No. 167A
Fourth Revised Sheet No. 171
Seventh Revised Sheet No. 172
Second Revised Sheet No. 175
Original Sheet No. 176
Original Sheet No. 177
Original Sheet No. 178
Original Sheet No. 179
Original Sheet No. 179A
Original Sheet No. 179B
Original Sheet No. 179C
Original Sheet No. 179D
Original Sheet No. 179E
Original Sheet No. 179F
Original Sheet No. 179G
Original Sheet No. 179H
Original Sheet No. 179I
Original Sheet No. 185C

Questar states that it is proposing to initiate a new, priority open-access park and loan service when Questar determines that it can reliably provide the service without detriment to the rights of existing firm storage shippers under Rate Schedule FSS.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah, and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15413 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket Nos. RP01–245–000 and RP01–253–000]**

## Transcontinental Gas Pipe Line Corporation; Notice Cancelling Settlement Conference

June 12, 2002.

Take notice that an informal settlement conference that was to have been convened in this proceeding commencing at 10:00 am on Monday, June 17, 2002 at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, for the purpose of exploring the possible settlement of the above-referenced dockets, has been cancelled.

For additional information, please contact Bill Collins at (202) 208–0248 or Irene Szopo at (202) 208–1602.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15412 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP02–359–000]**

## Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

June 12, 2002.

Take notice that on June 4, 2002, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective July 5, 2002:

Fourth Revised Sheet No. 197
Third Revised Sheet No. 198
First Revised Sheet No. 209
First Revised Sheet No. 210
Sheet Nos. 211–224
First Revised Sheet No. 289

Williston Basin has revised the above-referenced tariff sheets found in Section 7 and Section 22 of the General Terms and Conditions of its Tariff to obtain consistent financial information on a

nondiscriminatory basis from current and prospective shippers on its system.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Linwood A. Watson,**

*Jr., Deputy Secretary.*

[FR Doc. 02–15414 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP00–489–001]**

## Young Gas Storage Company, Ltd.; Notice of Compliance Filing

June 12, 2002.

Take notice that on May 31, 2002, Young Gas Storage Company, Ltd. (Young) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to become effective August 1, 2002:

Second Revised Sheet No. 46
Fifth Revised Sheet No. 53
Third Revised Sheet No. 54A
Second Revised Sheet No. 54B
Original Sheet No. 54C
Seventh Revised Sheet No. 55
Sixth Revised Sheet No. 65
First Revised Sheet No. 106A

Young states that the tariff sheets, which were included in Young's Order No. 637 compliance filing, are being filed to comply with the Commission's order issued May 1, 2002 in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before June 18, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15411 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EC02–73–000, *et al.*]**

## Caledonia Generating, LLC, *et al.*; Electric Rate and Corporate Regulation Filings

June 13, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

### 1. Caledonia Generating, LLC, Cogentrix Energy Power Marketing, Inc., Cogentrix Lawrence County, LLC, Green Country Energy, LLC, Jackson County Power, LLC, Quachita Power, LLC, Rathdrum Power, LLC, Southaven Power, LLC, & Aquila Merchant Services, Inc.

[Docket No. EC02–73–000]

Take notice that on June 5, 2002, Caledonia Generating, LLC, Cogentrix Energy Power Marketing, Inc., Cogentrix Lawrence County, LLC, Green Country Energy, LLC, Jackson County Energy, LLC, Quachita Power, LLC, Rathdrum Power, LLC, Southaven Power, LLC (Operating Companies) and Aquila Merchant Services, Inc. (AMS) filed with the Federal Energy Regulatory Commission (Commission) a joint application pursuant to section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities as a result of the merger of Cogentrix Energy, Inc. (Cogentrix), the parent of Operating Companies, and AMS.

Operating Companies are engaged exclusively in the business of owning generating facilities and selling capacity at wholesale. Joint Applicants request privileged treatment by the Commission of the Merger Agreement between Cogentrix and AMS that governs the proposed merger.

*Comment Date*: July 5, 2002.

### 2. California Independent System Operator Corporation

[Docket No. ER02–2040–000]

Take notice that on June 6, 2002, the California Independent System Operator Corporation, (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Berry Petroleum Company (Placerita Unit 2) (Berry Petroleum) for acceptance by the Commission.

The ISO states that this filing has been served on Berry Petroleum and the California Public Utilities Commission. The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective May 30, 2002.

*Comment Date*: June 27, 2002.

### 3. Florida Power & Light Company

[Docket No. ER02–2041–00]

Take notice that on June 6, 2002, Florida Power & Light Company ( PL filed a notice of termination of the unexecuted Interconnection & Operation Agreement between FPL and Enron Broward Development Company, LLC. FPL requests that the termination be made effective on the date of a Commission order accepting the notice of termination.

*Comment Date*: June 24, 2002.

### 4. UGI Utilities, Inc.

[Docket No. ER02-2042–000]

Take notice that on June 6, 2002, UGI, Inc. (UGI) tendered for filing a rate schedule under which it proposes to sell capacity and energy to affiliates and non-affiliates at market-based rates. UGI requests an effective date of August 1, 2002.

*Comment Date*: June 27, 2002.

### 5. California Independent System Operator Corporation

[Docket No. ER02–2043–000]

Take notice that the California Independent System Operator Corporation (ISO), on June 6, 2002,

tendered for filing an unexecuted Participating Generator Agreement between the ISO and Valero Refining Company—California (Valero) for acceptance by the Commission.

The ISO states that this filing has been served on Valero and the California Public Utilities Commission. The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective May 24, 2002.

*Comment Date*: June 27, 2002.

**6. California Independent System Operator Corporation**

[Docket No. ER02–2044–000]

Take notice that on June 6, 2002, the California Independent System Operator Corporation (ISO), tendered for filing a Participating Generator Agreement between the ISO and Berry Petroleum Company (Placerita Unit 2) (Berry Petroleum) for acceptance by the Commission.

The ISO states that this filing has been served on Berry Petroleum and the California Public Utilities Commission. The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective May 30, 2002.

*Comment Date*: June 27, 2002.

**7. Commonwealth Edison Company**

[Docket No. ER02–2045–000]

Take notice that on June 6, 2002, Commonwealth Edison Company (ComEd) submitted for filing a Service Agreement for Firm Point-to Point Transmission Service (Agreement) under ComEd's FERC Electric Tariff, Second Revised Volume No. 5.

ComEd seeks an effective date of May 8, 2002 for the Agreement and, accordingly, seeks waiver of the Commission's notice requirements. ComEd states that a copy of this filing has been served on MPEX and the Illinois Commerce Commission.

*Comment Date*: June 27, 2002.

**8. California Independent System Operator Corporation**

[Docket No. ER02–2046–000]

Take notice that the California Independent System Operator Corporation (ISO), on June 6, 2002, tendered for filing an unexecuted Meter Service Agreement for ISO Metered Entities between the ISO and Valero Refining Company—California (Valero) for acceptance by the Commission.

The ISO states that this filing has been served on Valero and the California Public Utilities Commission. The ISO is requesting waiver of the 60-day notice requirement to allow the Metered Service Agreement for ISO Metered Entities to be made effective May 24, 2002.

*Comment Date*: June 27, 2002.

**9. Virginia Electric and Power Company**

[Docket No. ER02–2047–000]

Take notice that on June 7, 2002, Virginia Electric and Power Company (Dominion Virginia Power) tendered for filing an executed Generator Interconnection and Operating Agreement (Interconnection Agreement) with Old Dominion Electric Cooperative (ODEC). The Interconnection Agreement sets forth the terms and conditions governing the interconnection between ODEC's generating facility and Dominion Virginia Power's transmission system.

Dominion Virginia Power requests that the Commission allow the Interconnection Agreement to become effective sixty days after filing or August 6, 2002. Copies of the filing were served upon ODEC and the Virginia State Corporation Commission.

*Comment Date*: June 28, 2002.

**10. Virginia Electric and Power Company**

[Docket No. ER02–2048–000]

Take notice that on June 7, 2002, Virginia Electric and Power Company (Dominion Virginia Power) tendered for filing an executed Generator Interconnection and Operating Agreement (Interconnection Agreement) with Old Dominion Electric Cooperative (ODEC). The Interconnection Agreement sets forth the terms and conditions governing the interconnection between ODEC's generating facility and Dominion Virginia Power's transmission system.

Dominion Virginia Power requests that the Commission allow the Interconnection Agreement to become effective sixty days after filing or August 6, 2002. Copies of the filing were served upon ODEC and the Virginia State Corporation Commission.

*Comment Date*: June 28, 2002.

**11. Wisconsin Electric Power Company**

[Docket No. ER02–2049–000]

Take notice that on June 7, 2002, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing a fully executed Master Power Purchase and Sale Agreement (Master Agreement), designated as FERC Electric Rate Schedule No. 110, between Wisconsin Electric and Rainy River Energy Corporation (Rainy River). The Master Agreement sets forth the general terms and conditions pursuant to which Wisconsin Electric and Rainy River will enter into transactions for the purchase and sale of electric capacity, energy, or other product related thereto. Wisconsin Electric also tendered for filing Service Agreement No. 1 under the rate schedule for the optional sale by Wisconsin Electric. Wisconsin Electric requests that this Master Agreement and Service Agreement become effective May 15, 2002.

*Comment Date*: June 28, 2002.

**12. Hartford Power Sales, L.L.C.**

[Docket No. ER02–2050–000]

Take notice that on June 7, 2002, Hartford Power Sales, L.L.C., tendered for filing a Notice of Cancellation of its authorization to engage in wholesale electric energy transactions at market-based rates, filed on January 6, 1995.

*Comment Date*: June 28, 2002.

**13. Xcel Energy Services, Inc.**

[Docket No. ER02–2051–000]

Take notice that on June 7, 2002, Xcel Energy Services, Inc. (XES), on behalf of Public Service Company of Colorado (Public Service), submitted for filing a Form of Service Agreement with H.Q. Energy Services (U.S.) Inc. (H.Q. Energy Services), which is in accordance with Public Service's Rate Schedule for Market-Based Power Sales (Public Service FERC Electric Tariff, First Revised Volume No. 6).

XES requests that this agreement become effective on May 23, 2002.

*Comment Date*: June 28, 2002.

**14. Xcel Energy Services, Inc.**

[Docket No. ER02–2052–000]

Take notice that on June 7, 2002 Xcel Energy Services, Inc. (XES), on behalf of Southwestern Public Service Company (SPS), submitted for filing a Transmission Agent Agreement between SPS and Central Valley Electric Cooperative, Inc. (Central Valley).

XES requests that this agreement become effective on January 14, 2002.

*Comment Date*: June 28, 2002.

**15. Western Resources, Inc.**

[Docket No. ER02–2053–000]

Take notice that on June 7, 2002, Western Resources, Inc. (WR) (d.b.a. Westar Energy) tendered for filing a Service Agreement between WR and the Alabama Electric Cooperative, Inc. (AEC). WR states that the purpose of this agreement is to permit SCEG to take service under WR's Market Based Power Sales Tariff on file with the Commission.

This agreement is proposed to be effective June 1st, 2002. Copies of the filing were served upon AEC and the Kansas Corporation Commission.

*Comment Date*: June 28, 2002.

**16. Tampa Electric Company**

[Docket No. ER02–2054–000]

Take notice that on June 7, 2002, Tampa Electric Company (Tampa Electric) tendered for filing an unexecuted service agreement with Entergy-Koch Trading, LP (Entergy-Koch) for non-firm point-to-point transmission service under Tampa Electric's open access transmission tariff. Tampa Electric proposes that the service agreement be made effective on May 16, 2002, and cancelled as of June 1, 2002.

Copies of the filing have been served on Entergy-Koch and the Florida Public Service Commission.

*Comment Date*: June 28, 2002.

**17. The Dayton Power and Light Company**

[Docket No. ER02–2055–000]

Take notice that on June 7, 2002 The Dayton Power and Light Company (Dayton) submitted a service agreement establishing CMS Marketing Services and Trading (CMS) as a customer under the terms of Dayton's FERC Electric Tariff, Original Volume No. 10.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of this filing were served upon CMS and the Public Utilities Commission of Ohio.

*Comment Date*: June 28, 2002.

**18. Southaven Power, LLC**

[Docket No. ER02–2056–000]

Take notice that on June 10, 2002, Southaven Power, LLC (Southaven) tendered for filing amendments to its existing authorization to sell capacity and energy at market-based rates to reflect its pending affiliation with Aquila, Inc.

*Comment Date*: July 1, 2002.

**19. Green Country Energy, LLC**

[Docket No. ER02–2057–000]

Take notice that on June 10, 2002, Green Country Energy, LLC (Green Country), tendered for filing amendments to its existing authorization to sell capacity and energy at market-based rates to reflect its pending affiliation with Aquila, Inc.

*Comment Date*: July 1, 2002.

**20. Cogentrix Energy Power Marketing, Inc.**

[Docket No. ER02–2058–000]

Take notice that on June 10, 2002, Cogentrix Energy Power Marketing, Inc. (CEPM) tendered for filing amendments to its existing authorization to sell capacity and energy at market-based rates to reflect its pending affiliation with Aquila, Inc.

*Comment Date*: July 1, 2002.

**21. Rathdrum Power, LLC**

[Docket No. ER02–2059–000]

Take notice that on June 10, 2002, Rathdrum Power, LLC (Rathdrum) tendered for filing amendments to its existing authorization to sell capacity and energy at market-based rates to reflect its pending affiliation with Aquila, Inc.

*Comment Date*: July 1, 2002.

**22. Jackson County Power, LLC**

[Docket No. ER02–2060–000]

Take notice that on June 10, 2002, Jackson County Power, LLC (Jackson County) tendered for filing amendments to its existing authorization to sell capacity and energy at market-based rates to reflect its pending affiliation with Aquila, Inc.

*Comment Date*: July 1, 2002.

**23. Caledonia Generating, LLC**

[Docket No. ER02–2061–000]

Take notice that on June 10, 2002, Caledonia Generating, LLC (Caledonia) tendered for filing amendments to its existing authorization to sell capacity and energy at market-based rates to reflect its pending affiliation with Aquila, Inc.

*Comment Date*: July 1, 2002.

**24. Quachita Power, LLC**

[Docket No. ER02–2062–000]

Take notice that on June 10, 2002, Quachita Power, LLC tendered for filing with the Federal Energy Regulatory Commission (Commission) amendments to its existing authorization to sell capacity and energy at market-based rates to reflect its pending affiliation with Aquila, Inc.

*Comment Date*: July 1, 2002.

**25. Cogentrix Lawrence County, LLC**

[Docket No. ER02–2063–000]

Take notice that on June 10, 2002, Cogentrix Lawrence County, LLC (Cogentrix Lawrence) tendered for filing amendments to its existing authorization to sell capacity and energy at market-based rates to reflect its pending affiliation with Aquila, Inc.

*Comment Date*: July 1, 2002.

**26. Choctaw Generation Limited Partnership**

[Docket No. ER02–2064–000]

Take notice that on June 10, 2002, Choctaw Generation Limited Partnership (CGLP) tendered for filing with the Federal Energy Regulatory Commission (Commission), a service agreement for sales of energy and capacity to the Tennessee Valley Authority.

*Comment Date*: July 1, 2002.

**27. Baja California Power, Inc.**

[Docket No. ER02–2065–000]

Take notice that on June 10, 2002, Baja California Power, Inc. (BCP) tendered for filing its Interconnection Services Agreement (the Agreement) dated as of April 22, 2002, between BCP, Energia Azteca X, S. de. R.L. de C.V. (Energia Azteca) and Energia de Baja California, S. de R.L. de C.V. (Energia de Baja). The Agreement allows for the interconnection of new generating plants owned by Energia Azteca and Energia de Baja and located near Mexicali, Mexico.

BCP states that copies of the filing have been served on Energia Azteca, Energia de Baja and the California Public Utilities Commission.

*Comment Date*: July 1, 2002.

**28. Southwest Power Pool, Inc.**

[Docket No. ER02–2066–000]

Take notice that on June 10, 2002, Southwest Power Pool, Inc. (SPP) submitted for filing executed service agreements for Firm Point-to-Point Transmission Service, Non-Firm Point-to-Point Transmission Service, and Loss Compensation Service with Select Energy, Inc. (Transmission Customer).

SPP seeks an effective date of June 6, 2002 for these service agreements.

The Transmission Customer was served with a copy of this filing.

*Comment Date*: July 1, 2002.

**Standard Paragraph**

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''RIMS'' link,

select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 02–15398 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EL02–97–000, et al.]**

## East Kentucky Power Cooperative, Inc., *et al.;* Electric Rate and Corporate Regulation Filings

June 12, 2002.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

### 1. East Kentucky Power Cooperative, Inc. Complainant, v. Louisville Gas & Electric Company, Kentucky Utilities Company Respondent

[Docket No. EL02–97–000]

Take notice that on June 10, 2002, East Kentucky Power Cooperative, Inc. (EKPC) filed a complaint under Sections 206 and 306 of the Federal Power Act, 18 USC 824e and 825e, and Rule 206 of the Commission's Rules and Regulations against Louisville Gas & Electric Company and Kentucky Utilities Company, alleging that these companies have begun overcharging East Kentucky Power Cooperative for transmission services in violation of FERC-approved settlement agreements.

*Comment Date*: July 1, 2002.

### 2. Entergy Services, Inc.

[Docket No. ER02–2021–000]

Take notice that on June 3, 2002, Entergy Services, Inc., on behalf of Entergy Gulf States, Inc. (Entergy Gulf States), tendered for filing six copies of a Notice of Termination of the Interconnection and Operating Agreement and Generator Imbalance Agreement between Entergy Gulf States and The Goodyear Tire & Rubber Company.

*Comment Date*: June 24, 2002.

### 3. Western Resources, Inc.

[Docket No. ER02–2022–000]

Take notice that on June 3, 2002, Western Resources, Inc. (WR) (d.b.a. Westar Energy) tendered for filing a Service Agreement between WR and the South Carolina Electric & Gas Company (SCEG). WR states that the purpose of this agreement is to permit SCEG to take service under WR's Market Based Power Sales Tariff on file with the Commission. This agreement is proposed to be effective May 1st, 2002.

Copies of the filing were served upon SCEG and the Kansas Corporation Commission.

*Comment Date*: June 24, 2002.

### 4. Western Resources, Inc., Kansas Gas and Electric Company

[Docket No. ER02–2023–000]

Take notice that on June 3, 2002, Western Resources, Inc. (WR) (d.b.a. Westar Energy), submitted for filing Revised Pages 34–42 (Exhibits B, C and D) to KGE's Electric Power, Transmission, and Service Contract with the Kansas Electric Power Cooperative (KEPCo). WR also submitted, on behalf of its wholly owned subsidiary Kansas Gas and Electric Company (KGE) (d.b.a. Westar Energy), Revised Pages 31–36 (Exhibits B, and C) to KGE's Electric Power, Transmission, and Service Contract with the KEPCo. These revisions are part of WR's and KGE's annual exhibits filed with the Federal Energy Regulatory Commission. The revised pages are proposed to be effective June 1, 2002.

Copies of the filing were served upon KEPCo and the Kansas Corporation Commission.

*Comment Date*: June 24, 2002.

### 5. Xcel Energy Services, Inc.

[Docket No. ER02–2024–000]

Take notice that on June 3, 2002 Xcel Energy Services, Inc. (XES), on behalf of Southwestern Public Service Company (SPS), submitted for filing a First Amendment to the Transaction Agreement between SPS and West Texas Municipal Power Agency (WTMPA).

XES requests that this agreement become effective on June 1, 2002.

*Comment Date*: June 24, 2002.

### 6. CalPeak Power—Panoche LLC, CalPeak Power—Vaca Dixon LLC, CalPeak Power—El Cajon LLC, CalPeak Power—Enterprise LLC, CalPeak Power—Border LLC.

[Docket No. ER02–2025–000]

Take notice that on June 3, 2002, CalPeak Power—Panoche LLC, CalPeak Power—Vaca Dixon LLC, CalPeak Power—El Cajon LLC, CalPeak Power—Enterprise LLC, and CalPeak Power—Border LLC tendered for filing long-term service agreements under their respective FERC Electric Tariffs, Original Volume No. 1.

*Comment Date*: June 24, 2002.

### 7. Quachita Power, LLC

[Docket No. ER02–2026–000]

Take notice that on June 4, 2002, Quachita Power, LLC tendered for filing a Notice of Succession pursuant to 18 CFR 35.16 of the Federal Energy Regulatory Commission's regulations in order to reflect its name change from Quachita Power, LLC.

*Comment Date*: June 25, 2002.

### 8. Public Service Company of New Mexico

[Docket No. ER02–2027–000]

Take notice that on June 4, 2002, Public Service Company of New Mexico (PNM) filed a Notice of Cancellation with the Federal Energy Regulatory Commission with respect to Service Schedule J—Hazard Sharing, under the Master Interconnection Agreement between PNM and Tri-State Generation and Transmission Association, Inc. (Tri-State) (Supplement No. 36, as supplemented, to PNM Rate Schedule FERC No. 31). Pursuant to the provisions of Service Schedule J, Tri-State provided notice of its intent to terminate the service schedule. Consistent with the provisions of Service Schedule J, and the notice requirements of 18 CFR 35.15, PNM requests that cancellation of Supplement No. 36 (as supplemented) to PNM Rate Schedule FERC No. 31 become effective on August 3, 2002. The Notice of Cancellation is available for public inspection during normal business hours at PNM's offices in Albuquerque, New Mexico.

A copy of the filing has been served upon Tri-State and an informational copy was provided to the New Mexico Public Regulation Commission and the New Mexico Attorney General.

*Comment Date*: June 25, 2002.

### 9. American Electric Power Service Corporation

[Docket No. ER02–2028–000]

Take notice that on June 4, 2002, the American Electric Power Service Corporation (AEPSC), tendered for filing Firm Point-to-Point Transmission (PTP) Service Agreements and Long-Term Firm PTP Service Agreement Specifications for AEPSC's Wholesale Power Merchant Organization and Constellation Power Source, Inc. These agreements are pursuant to the AEP Companies' Open Access Transmission Service Tariff that has been designated as the Operating Companies of the American Electric Power System FERC

Electric Tariff Second Revised Volume No. 6.

AEPSC requests waiver of notice to permit the Service Agreements to be made effective on and after June 1, 2002. A copy of the filing was served upon the Parties and the state utility regulatory commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

*Comment Date:* June 25, 2002.

**10. Xcel Energy Services, Inc.**

[Docket No. ER02–2029–000]

Take notice that on June 4, 2002 Xcel Energy Services, Inc. (XES), on behalf of Southwestern Public Service Company (SPS), submitted for filing a Transmission Agent Agreement between SPS and Lea County Electric Cooperative, Inc. (Lea County).

XES requests that this agreement become effective on January 14, 2002.

*Comment Date:* June 25, 2002.

**11. Xcel Energy Services, Inc.**

[Docket No. ER02–2030–000]

Take notice that on June 4, 2002 Xcel Energy Services, Inc. (XES), on behalf of Southwestern Public Service Company (SPS), submitted for filing a Transmission Agent Agreement between SPS and Cap Rock Electric Cooperative, Inc. (Cap Rock).

XES requests that this agreement become effective on January 14, 2002.

*Comment Date:* June 25, 2002.

**12. Wisconsin Electric Power Company**

[Docket No. ER02–2031–000]

Take notice that on June 4, 2002. Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an electric service agreement between the Wisconsin Energy Corporation Operating Companies (WEC Operating Companies) and Midwest Independent System Operator (MISO) under the WEC Operating Companies Joint Ancillary Services Tariff. (WEC Operating Companies FERC Electric Tariff, Original Volume No. 2). Wisconsin Electric respectfully requests an effective date February 1, 2002.

Copies of the filing have been served on MISO, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

*Comment Date:* June 25, 2002.

**13. Midwest Independent Transmission System Operator, Inc., American Transmission Company LLC**

[Docket No. ER02–2033–000]

Take notice that on June 5, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and American Transmission Company LLC (ATCLLC) tendered for filing revisions to the Midwest ISO open access transmission tariff to add limitation of liability provisions. Applicant request an effective date of August 5, 2002. The Midwest ISO seeks waiver of the Commission's regulations, 18 CFR 385.2010 (2000) with respect to service on all required parties. The Midwest ISO has posted this filing on its Internet site at *www.midwestiso.org,* and the Midwest ISO will provide hard copies to any interested parties upon request.

*Comment Date:* June 26, 2002.

**14. Xcel Energy Services, Inc.**

[Docket No. ER02–2034–000]

Take notice that on June 5, 2002 Xcel Energy Services, Inc. (XES), on behalf of Southwestern Public Service Company (SPS), submitted for filing a Transmission Agent Agreement between SPS and Lyntegar Electric Cooperative, Inc. (Lyntegar).

XES requests that this agreement become effective on January 14, 2002.

*Comment Date:* June 26, 2002.

**15. Xcel Energy Services, Inc.**

[Docket No. ER02–2035–000]

Take notice that on June 5, 2002 Xcel Energy Services, Inc. (XES), on behalf of Southwestern Public Service Company (SPS), submitted for filing a Transmission Agent Agreement between SPS and Farmers' Electric Cooperative, Inc. of New Mexico (Farmers').

XES requests that this agreement become effective on January 14, 2002.

*Comment Date:* June 26, 2002.

**16. Texas-New Mexico Power Company**

[Docket No. ER02–2036–000]

Take notice that on June 6, 2002, Texas-New Mexico Power Company (TNMP) tendered for filing an Interconnection and Operating Agreement (Interconnection Agreement) between TNMP and Public Service Company of New Mexico (PNM). TNMP requests waiver of the Commission's prior notice requirement so that the Interconnection Agreement is made effective May 31, 2002.

Copies of the filing were served upon PNM and the New Mexico Public Regulation Commission.

*Comment Date:* June 27, 2002.

**17. Idaho Power Company**

[Docket No. ER02–2037–000]

Take notice that on June 5, 2002, Idaho Power Company filed a Service Agreement for Firm Point-to-Point Transmission Service between Idaho Power Company and Bonneville Power Administration, under its open access transmission tariff in the above-captioned proceeding.

*Comment Date:* June 26, 2002.

**18. Idaho Power Company**

[Docket No. ER02–2038–000]

Take notice that on June 5, 2002, Idaho Power Company filed a Service Agreement for Firm Point-to-Point Transmission Service between Idaho Power Company and Idaho Power Supply, under its open access transmission tariff in the above-captioned proceeding.

*Comment Date:* June 26, 2002.

**19. Public Service Company of New Mexico**

[Docket No. ER02–2039–000]

Take notice that on June 5, 2002, Public Service Company of New Mexico (PNM) submitted for filing an executed copy of a service agreement with Overton Power District No. 5, dated May 22, 2002, for electric energy and/or capacity sales at negotiated market-based rates under PNM's Power and Energy Sales Tariff (FERC Electric Tariff, First Revised volume No. 3). PNM has requested an effective date of June 1, 2002 for the service agreement. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of this filing have been served upon Overton Power District No. 5, the New Mexico Public Regulation Commission, and the New Mexico Attorney General.

*Comment Date:* June 26, 2002.

**Standard Paragraph**

E. Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Protests and interventions

may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15380 Filed 6–19–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Project No. 2634–007]**

## GNE, LLC; Notice of Availability of Final Environmental Assessment

June 13, 2002.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for a new license for the existing and operating Storage Project, located on Ragged Steam, Caucomgomoc Stream, West Branch and South Branch of the Penobscot River in the Counties of Somerset and Piscataquis, Maine and has prepared a Final Environmental Assessment (EA) for the project.

Copies of the EA are available for review in the Public Reference Branch, Room 2-A, of the Commission's offices at 888 First Street, NE., Washington, DC 20426. The EA may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions. Please call (202) 208–2222 for assistance.

For further information, contact John Costello at (202) 219–2914 or *john.costello@ferc.gov*.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15403 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Declaration of Intention and Solicitation of Comments, Motions to Intervene, and Protests

June 13, 2002.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type*: Declaration of Intention.

b. *Project No*: DI02–4–000.

c. *Date Filed*: June 4 , 2002.

d. *Applicant*: John A. Hoogland.

e. *Name of Project*: Klatt Creek Project.

f. *Location*: The project is located on Klatt Creek, a tributary of the Oconto River, near Underhill, Oconto County, Wisconsin, at T. 28 N , R. 17 E., Section 35, SW¼—NW¼, 4th Principal Meridian. This project will not occupy Federal or Tribal lands.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 USC 817 (b).

h. *Applicant Contact*: John A. Hoogland, 12851 Wiskow, Cecil, WI 54111, telephone (920) 855–2421.

i. *FERC Contact*: Any questions on this notice should be addressed to Etta Foster (202) 219–2679, or e-mail address: *etta.foster@ferc.gov*.

j. Deadline for filing comments, protests, and or motions to intervene: July 15, 2002.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. Any questions, please contact the Secretary's Office. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov.*

Please include the docket number (DI02–4–000) on any comments, protests, or motions filed.

k. *Description of Project*: The proposed Klatt Creek Project, a run-of-river development, will consist of: (1) A 4-foot-high waterwheel; (2) a 750-watt generator; (3) a 300-foot-long underground transmission line, leading from the inverter to a stepdown transformer and change converter, connected to a 24-volt DC battery bank; and (4) appurtenant facilities. It will not be connected to an interstate grid. All power produced will be used on site.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act (FPA), 16 U.S.C. 817 (1), requires the Commission to investigate and determine whether or not the project is required to be licensed. Pursuant to Section 23(b)(1) of the FPA, a non-federal hydroelectric project must (unless it has a still-valid pre-1920 federal permit) be licensed if it is located on a navigable water of the United States; occupies lands of the United States; utilizes surplus water or water power from a government dam; or is located on a body of water over which Congress has Commerce Clause jurisdiction, project construction occurred on or after August 26, 1935, and the project affects the interests of interstate or foreign commerce. The purpose of this notice is to gather information to determine whether the existing project meets any or all of the above criteria, as required by the FPA.

l. *Locations of the Application*: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See*, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's web site at *http://www.ferc.gov* under the ''e-Filing'' link.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15400 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Project No. 362–004]**

## Notice of Scoping Meetings and Site Visit and Solicitation of Scoping Comments

June 13, 2002.

Take notice that the following hydroelectric application has been filed with Commission and are available for public inspection:

a. *Type of Application*: New Major License.

b. *Project No.*: 362–004.

c. *Date filed*: June 1, 2001.

d. *Applicant*: Ford Motor Company.

e. *Name of Project*: Ford Hydroelectric Project.

f. *Location*: On the Mississippi River, in the city of St. Paul, Ramsey County, Minnesota, at the U.S. Army Corps of Engineers' Lock and Dam No.1. The project is partially located on federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. § 791 (a)–825(r).

h. *Applicant Contact*: George Waldow, HDR Engineering, Inc., 6190 Golden Hills Drive, Minneapolis, Minnesota 55416, or telephone (763) 591–5485.

i. *FERC Contact*: Sergiu Serban, E-mail address *sergiu.serban@ferc.fed.us*, or telephone (202) 501–6935.

j. *Deadline for filing scoping comments*: July 29, 2002.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Scoping comments may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. This application is not ready for environmental analysis at this time.

l. *Description of the Project*: The proposed project would utilize the U.S. Army Corps of Engineers' Lock and Dam No. 1 and would consist of the following facilities: (1) An existing powerhouse integral with the dam having a total installed capacity of 18,000 kilowatts; and (2) appurtenant facilities. The average annual generation is estimated to be 97 gigawatt hours.

m. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link—select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

n. Scoping Process

The Commission intends to prepare an Environmental assessment (EA) on the project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

### Scoping Meetings

FERC staff will conduct one agency scoping meeting and one public meeting. The agency scoping meeting will focus on resource agency and non-governmental organization (NGO) concerns, while the public scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of these meetings are as follows:

### Agency Scoping Meeting

*Date:* Friday, June 28, 2002
*Time:* 9:30 a.m. to 12:00 p.m.
*Place:* Ford Motor Company's Twin Cities Assembly Plant UAW-MNSCU Training Center
*Address:* 966 Mississippi River Boulevard South St. Paul, Minnesota

### Public Scoping Meeting

*Date:* Thursday, June 27, 2002
*Time:* 7:00 p.m. to 9:00 p.m.
*Place:* Same location as for the Agency Meeting
*Address:* Same address as for the Agency Meeting

Copies of the Scoping Document (SD1) outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list. Copies of the SD1 will be available at the scoping meeting or may be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance).

### Site Visit

The Applicant and FERC staff will conduct a site visit of the project on June 27, 2002, between 8 a.m. and 10 a.m. All interested individuals, organizations, and agencies are invited to attend. All participants should meet inside of the Training Center for a short overview of the hydro operations and safety instructions. Participants in the site visit will need to provide their own transportation and bring their own lunch. All participants are responsible for their own transportation to the site.

### Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

### Procedures

The meetings are recorded by a stenographer and become part of the formal record of the Commission proceeding on the project.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meeting and to assist the staff in defining and clarifying the issues to be addressed in the EA.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15402 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

### Notice of Petition for Declaratory Order and Soliciting Comments, Motions to Intervene, and Protests

June 12, 2002.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type*: Petition for Declaratory Order.

b. *Docket No*: DI02–5–000.

c. *Date Filed*: June 4, 2002.

d. *Applicant*: University of Idaho.

e. *Name of Project*: Taylor Ranch.

f. *Location*: The Taylor Ranch Project, constructed in 1997, is connected to a pre-existing domestic and irrigation water system, installed in the 1950's, whose water intake is located on the Payette National Forest land in T. 20 N., R. 13 E., sec. 3, Boise Meridian. The project's generator is located on private lands. The water is diverted from Pioneer Creek, a tributary to Big Creek and the Middle Fork Salmon River, Valley County, Idaho.

g. *Filed Pursuant to*: Section 23(b)(1) of the Federal Power Act, 16 USC 817(b).

h. *Applicant Contact*: Gerard Billington, University of Idaho, Capital Planning and Budget, P.O. Box 443162, Moscow, ID 83844–3162, telephone number (208) 885–6468, e-mail *gerardb@uidaho.edu*.

i. *FERC Contact*: Any questions on this notice should be addressed to Diane M. Murray, (202) 208–0735, or E-mail address: *diane.murray@ferc.gov*.

j. *Deadline for filing comments and/or motions*: July 15, 2002.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. Any questions, please contact the Secretary's Office. *See*, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov*.

Please include the docket number (DI02–5–000) on any comments, protests, or motions filed.

k. *Description of Project*: The existing project consists of a 750-watt generator and appurtenant facilities.

When a Petition for Declaratory Order is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application*: Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15405 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

### Notice of Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Protests

June 12, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12178–000.

c. *Date filed:* May 30, 2002.

d. *Applicant:* Verdant Power, LLC.

e. *Name of Project:* Roosevelt Island Tidal Energy Hydroelectric Project.

f. *Location:* The project would be located in the East River—East Channel off Roosevelt Island, and on Roosevelt Island lands bordering the northern Channel, in Queens County, New York. The project would not occupy Federal or Tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicant Contact:* Mr. William H. Taylor, Verdant Power, LLC, 4640 13th Street North, Arlington, VA 22207–2102, (703) 528–6445.

i. *FERC Contact:* Mr. James Hunter, (202) 219–2839.

j. *Deadline for filing motions to intervene, protests, and comments:* 60 days from the issue date of this notice.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under the ''e-Filing'' link. Please include the project number (P–12178–000) on any comments or motions filed.

k. *Description of Project:* The proposed tidal energy development project would consist of: (1) 494 proposed 16-foot-diameter, 21-kilowatt free-flow turbine generating units, deployed below the water surface in 30 rows with an average of 17 units per row, and (2) proposed power control

and interconnection facilities located on Roosevelt Island. The rows would be separated by 200 feet of channel length and the units would be distributed across the western half of the channel. The project would have an annual generation of 32.8 gigawatt hours that would be sold to a local utility.

l. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h. above.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

r. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

s. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**Linwood A. Watson, Jr.,**

*Deputy Secretary.*

[FR Doc. 02–15407 Filed 6–18–02; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7233–9]**

## National Drinking Water Advisory Council: Request for Nominations to Contaminant Candidate List Working Group and Small Systems Affordability Working Group

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice; request for nominations to the Drinking Water Contaminant Candidate List Working Group and Small Systems Affordability Working Group of the National Drinking Water Advisory Council.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing the formation of a Drinking Water Contaminant Candidate List (CCL) Working Group and Small Systems Affordability Working Group of the National Drinking Water Advisory Council (NDWAC), and soliciting nominations to these working groups. The Advisory Council was established to provide practical and independent advice, consultation, and recommendations to the Agency on the activities, functions, and policies related to the implementation of the Safe Drinking Water Act as amended.

Any interested person or organization may nominate qualified individuals for membership on the working groups. Nominees should be identified by name, occupation, position, address and telephone number. To be considered, all nominations must include a current resume providing the nominee's background, experience and qualifications.

### Drinking Water Contaminant Candidate List Working Group

The CCL serves as the primary source of priority contaminants for the Agency's drinking water program. The current version of the list is divided among priorities for drinking water research and those contaminants which are priorities for consideration for Agency determinations of whether or not to regulate specific contaminants. The list is comprised of both chemical and microbial contaminants that are known or anticipated to occur in public water systems, and may have adverse health effects, and which at the time of publication are not subject to any proposed or promulgated National Primary Drinking Water Standards. The first CCL contained 50 chemical and 10 microbial contaminants/groups and was developed based on the review of readily available information on

potential drinking water contaminants and recommendations by technical experts.

EPA recognized the need for a more robust and transparent process for identifying and narrowing potential contaminants for future CCLs and now plans to develop a new risk based priority setting process based upon consideration of the recommendations made by the National Research Council (NRC) in its 2001 report, ''Classifying Drinking Water Contaminants for Regulatory Consideration.'' The process is expected to allow the drinking water program to identify those contaminants that pose the greatest risk to persons served by public water supplies. The process will be utilized for selecting contaminants for future CCLs.

The NRC recommended that the CCL be developed in a two step process. Under the NRC-recommended approach, the ''universe'' of potential drinking water contaminants is identified by considering many possible categories and sources of contaminants. The first step involves narrowing down the ''universe'' to a preliminary CCL (PCCL) using screening criteria and expert judgment. The second step involves the use of a decision process and expert judgment to select high priority contaminants for CCL from the PCCL. The NRC-recommended decision process for step 2 involves use of a prototype classification approach based on predictive features and attributes of contaminants. The NRC also recommends using virulence factor activity relationships (VFAR) to identify microbiological contaminants. VFAR is analogous to quantitative structure activity relationships used for chemical contaminants. It relies on new genetic and proteomic analytical approaches to identify indicators or predictive factors of potentially virulent pathogens for inclusion on a CCL.

**Small Systems Affordability Working Group**

EPA recognizes the special challenges faced by small water systems and is committed to using the suite of tools and mechanisms provided under the 1996 Safe Drinking Water Act (SDWA) amendments (including the small system affordability provisions of the Act) to help minimize the financial impact that new regulations will have on small drinking water systems. Small systems are being asked—in some cases for the first time—to grapple with a whole new set of public health challenges. In doing so, they face considerable financial challenges. In its FY 2002 Appropriations Report Language, Congress directed EPA to review the Agency's affordability criteria.

EPA currently uses an affordability threshold of 2.5% of median household income. EPA's national-level affordability criteria consist of two major components: an expenditure baseline and an affordability threshold. The expenditure baseline (derived from annual median household water bills) is subtracted from the affordability threshold (a share of median household income that EPA believes to be a reasonable upper limit for these water bills) to determine the expenditure margin (the maximum increase in household water bills that can be imposed by treatment and still be considered affordable). EPA compares the cost of treatment technologies against the available expenditure margin to determine if an affordable compliance technology can be identified. If EPA cannot identify an affordable compliance technology, then it attempts to identify a variance technology. Findings must be made at both the Federal and State level that compliance technologies are not affordable for small systems before a variance can be granted.

As part of the Agency's review of affordability, a number of areas will be explored. The Agency will evaluate alternatives to the median as the income level for the affordability threshold. The Agency will evaluate alternatives to using 2.5% as the income percentage for the affordability threshold. The Agency will evaluate methods to account for the cost of new rules. The Agency will investigate whether separate criteria should be developed for ground and surface water systems. The EPA will evaluate the impact of financial assistance programs on affordability. The Agency is also receptive to other approaches to reviewing the present affordability criteria.

**Submitting Nominations**

In view of the importance of these actions for the drinking water program, the Agency is seeking further public input on each of these important issues by establishing working groups of the National Drinking Water Advisory Council (NDWAC). Consistent with that commitment, EPA will work with the NDWAC to convene a panel of nationally recognized technical experts to study these issues further and is seeking nominations for these working groups through this notice.

The criteria for selecting working group members are that working group members are recognized experts in their fields; that working group members are as impartial and objective as possible; that working group members represent an array of backgrounds and perspectives (within their disciplines); that the working group members are available to participate fully in the review, which will be conducted over a relatively short time frame (*i.e.,* within approximately 4–5 months); and that the results of the review be made publicly available for comment. Working group members will be asked to attend a series of meetings (approximately three) over the course of 4–5 months, participate in the discussion of key issues and assumptions at these meetings, and review and finalize the products and outputs of the working group. The working group will make a recommendation to the full NDWAC. The NDWAC will, in turn, make a recommendation to EPA.

Nominations for both working groups should be submitted to EPA no later than July 5, 2002. Nominations for the CCL–2 Working Group should be submitted to Dr. Jitendra Saxena, Designated Federal Officer, NDWAC Working Group, EPA, Office of Ground Water and Drinking Water (4607M), 1200 Pennsylvania Avenue, NW Washington, DC 20460. Nominations for Small Systems Affordability Working Group should be submitted to Mr. Amit Kapadia, Designated Federal Officer, NDWAC Working Group at the same address. Given the delays associated with mail due to extra security, it is recommended that a copy of the nominations be sent by e-mail to *saxena.jitendra@epa.gov* and *kapadia.amit@epa.gov.* The Agency will not formally acknowledge or respond to nominations.

**FOR FURTHER INFORMATION CONTACT:** Dr. Jitendra Saxena by e-mail or call (202) 564–5243, Mr. Amit Kapadia by e-mail or call (202) 564–4879.

Dated: June 13, 2002.

**Cynthia C. Dougherty,**

*Director, Office of Ground Water and Drinking Water.*

[FR Doc. 02–15461 Filed 6–18–02; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7233–8]**

## EPA Science Advisory Board; Human Health Research Strategy Review Panel; Request for Nominations

**ACTION:** Notice; request for nominations to serve on the Human Health Research Strategy Review Panel (HHRS Review Panel) of the U.S. Environmental

Protection Agency's Science Advisory Board (SAB).

**SUMMARY:** The U.S. Environmental Protection Agency's (Agency, EPA) Science Advisory Board (SAB) is announcing the formation of a panel to review the Agency's Human Health Research Strategy and the solicitation of nominations for qualified individuals to serve on this Panel. To establish this panel, the SAB is soliciting nominations to augment a pool of candidates now composed of its existing Environmental Health Committee (EHC) and its Integrated Human Exposure Committee (IHEC). The EPA Science Advisory Board was established to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical bases for EPA regulations. In this sense, the Board functions as a technical peer review panel for the research strategy.

**FOR FURTHER INFORMATION CONTACT:** —Additional information on this review can be obtained by contacting Mr. Thomas O. Miller, Designated Federal Officer, Human Health Research Strategy Review Panel, US EPA Science Advisory Board (1400A), Suite 6450CC, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone/voice mail at (202) 564–4558; fax at (202) 501–0582; or via e-mail at *miller.tom@epa.gov.*

Nomination information should be submitted via e-mail (preferred) to Ms. Diana Pozun, Management Assistant, EPA Science Advisory Board, U.S. Environmental Protection Agency (1400A), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone (202) 564–4544; FAX (202) 501–0323, e-mail *pozun.diana@epa.gov.*

Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found on the SAB Web site (*http://www.epa.gov/sab*) and in the Science Advisory Board FY2001 Annual Staff Report which is available from the SAB Publications Staff at (202) 564–4533, via fax at (202) 501–0256, or on the SAB Web site at *http://www.epa.gov/sab/annreport01.pdf.*

*Nomination Procedures:* The approved policy under which the EPA Science Advisory Board establishes review panels is described in a recent Commentary, EPA Science Advisory Board (SAB) Panel Formation Process: Immediate Steps to Improve Policies and Procedures: An SAB Commentary (EPA–SAB–EC–COM–002–003), which can be found on the SAB Web site at *www.epa.gov/sab/ecm02003.pdf.* Principles discussed in that document will govern the establishment of the HHRS Review Panel.

Any interested person or organization may nominate qualified individuals for membership on the HHRS Review Panel. Nominations, preferably in electronic format, should be submitted to Ms. Pozun at *pozun.diana@epa.gov.* Anyone unable to submit nominations in electronic format should send the information specified below to Ms. Pozun (address above) Nominations should arrive no later than July 5, 2002. The Agency will not necessarily formally acknowledge or respond to nominations.

Nominations must include the individual's name, occupation, position, qualifications to address the issue, and contact information (i.e., telephone number, fax number, mailing address, e-mail, and/or Web site). To be considered, all nominations must include a current biographical sketch (approximately one page in length), CV or resume (preferably electronic in MSWord or WordPerfect) providing information on the nominee's background, experience, and qualifications for this Panel. Detailed information on the nominator is not required, but the nominator's name, affiliation, and contact information is requested in order to permit the staff to contact the nominators with any questions and keep them informed of activities associated with this review. Names and affiliations of nominators for individuals on the ''Short List'' that the SAB intends to consider further for panel membership, will be included in the information made available to the public when the Short List is announced.

To improve the efficiency in processing of nominations the SAB requests that nominations be provided in the following manner:

(1) Send the nomination by e-mail to: *pozun.diana@epa.gov*

(2) Use one e-mail per person being nominated

(3) Please use ''Human Health Research Strategy Nomination'' in the subject field, followed by the last name of the candidate you are nominating. (For example, ''Human Health Research Strategy Nomination: Smith)

(4) Attach supporting information in MS Word or Wordperfect files ending in ''.doc'' or ''.wpd'', respectively

(5) In a separate file from the biographical sketch, CV or resume, please provide the following information in the order shown:

*For the Nominating Individual:*
First Name: _____
Last Name: _____
Organizational Affiliation and Title: _____
E-mail Address: _____
Mailing Address: _____
Work Phone: _____
Work Fax: _____

*For the Candidate being nominated:*
First Name: _____
Last Name: _____
Professional Title: _____
Department: _____
School or Unit: _____
University or Organization: _____
Mailing Address: _____
Work Phone: _____
Fax Work Phone: _____
E-mail Address: _____
Web site for CV (if one exists): _____

*Nominator's Assessment of Expertise:*

The following areas of expertise will be useful in this review. Please indicate the areas of expertise the candidate could contribute with a short statement explaining why this is the case:

1. Risk assessment and the application of the Agency's risk assessment guidelines;
2. Exposure measurement/assessment;
3. Dosimetry/mechanisms of action;
4. Computational toxicology;
5. Aggregate and cumulative risk;
6. Research into various toxicologic endpoints including carcinogenicity;
7. Molecular genetics;
8. Epidemiology;
9. Health effects in sensitive and susceptible population groups;
10. Uncertainty analysis; and
11. Public health outcomes
12. Others that nominators might feel to be appropriate

*Evaluation Procedures:* The SAB panel formation process, mentioned earlier in this notice, is described in an SAB Commentary, EPA Science Advisory Board (SAB) Panel Formation Process: Immediate Steps to Improve Policies and Procedures: An SAB Commentary (*http://www.epa.gov/sab/ecm02003.pdf*). This process guides the activity used by the SAB to gather and evaluate nominees and to select a panel having balanced membership. At the SAB, a balanced panel is characterized by inclusion of the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors can be influenced by work history and affiliation), and the collective breadth of experience to address the charge adequately.

First, the process solicits nominations to the Panel from SAB members and consultants, external outreach to the public, and contact with the Agency itself to obtain a broad set of nominees to consider for membership. Second, the nominations received are combined and entered into a data base termed the ''WIDECAST.'' Third, a smaller subset (the ''Short List'') will be identified from

this larger group of nominees for more detailed consideration. The Short List includes the names of candidates, a short biographical sketch of each candidate, and the names of those who nominated the person. Fourth, the Short List is posted on the SAB Web site (*www.epa.gov/sab*), and public comments accepted on the individual's expertise, conflict-of-interest, questions on any perceived lack of impartiality of the person (as defined by federal regulation), as well as on the overall balance of technical views represented on the Panel.

Finally, the Panel members are selected by considering public reaction to the Short List candidates, information provided by candidates, and information on the background of each candidate which is gathered independently by SAB Staff. Criteria used in the evaluating of individual panelists include: (a) Expertise, knowledge, and experience (primary factors); (b) scientific credibility and impartiality; (c) skills working in committees and advisory panels; and (d) availability.

Panel members will be asked to attend at least one public face-to-face meeting and, probably, several public telephone conference call meetings over the anticipated 3-month course of the activity. The Executive Committee (EC) of the SAB will review the Panel's report in a public meeting and reach a judgment about its transmittal to the Administrator.

*Background:* The mission of the U.S. Environmental Protection Agency (EPA) is to protect public health and safeguard the natural environment. Risk assessment is an integral part of this mission in that it identifies and characterizes environmentally related human health problems. The Human Health Research Strategy document presents a conceptual framework for future human health research by EPA's Office of Research and Development (ORD). The Agency's research strategy outlines a core research effort to provide broader, more fundamental information that will improve understanding of problem-driven health risk issues encountered by the EPA's Program and Regional Offices. The document focuses on broad themes and general approaches. Implementation of an integrated research program on human health is described in greater detail in ORD's Multiyear Plan on Human Health Research which identifies the specific performance goals and the measures needed to achieve those goals over a 5 to 10 year period.

ORD's strategic research directions for Human Health include (1) research to improve the scientific foundation of human health risk assessment; and (2) research to enable evaluation of public health outcomes from environmental risk management decisions.

1. Research to Improve the Scientific Foundation of Human Health Risk Assessment. ORD's human health risk assessment program assumes that major uncertainties in risk assessment can be reduced by understanding and elucidating the fundamental determinants of exposure and dose and the basic biological changes that follow exposure to pollutants and which result in a toxic response. This research will provide the scientific knowledge and principles to improve the risk assessment for all human health endpoints, aggregate and cumulative risk, and risk to susceptible populations.

One component of this forward looking research focuses on Harmonizing Risk Assessment Approaches. This research addresses the differing approaches for the assessment of risk from cancer and noncancer health endpoints. The intent of this research is to develop a common set of principles and guidelines for drawing inferences about risk based on mechanistic information. Specific research objectives include: (i) The development of emerging technologies or methods to study mode or mechanism of action; (ii) provision of a framework for defining mode or mechanism of action; (iii) development of a basis for comparing risk across all health endpoints using mechanistic information; (iv) developing principles for the use of mechanistic data to select the most appropriate risk assessment model; and (v) development of principles for the use of mechanistic data to reduce or replace uncertainty factors in risk assessments, especially for inter- and intraspecies extrapolation.

Research on Aggregate and Cumulative Risk reflects the reality that humans are exposed to mixtures of pollutants from multiple sources. This research will provide the scientific support for decisions concerning exposure to a pollutant by multiple routes of exposure or to multiple pollutants having a similar mode of action. ORD will also develop approaches to study how people and communities are affected following exposure to multiple pollutants that may interact with other environmental stressors. Specific research objectives include: (i) Determining the best and most cost-effective ways to measure human exposures in all relevant media; (ii) developing exposure models and methods suitable for the EPA and the public to assess aggregate and cumulative risk; and (iii) providing the scientific basis to predict the interactive effects of pollutants in mixtures and the most appropriate approaches for combining effects and risks from pollutant mixtures.

Research on Susceptible and Highly-Exposed Subpopulations will focus on developing a scientific understanding of the biological basis for differing responsiveness of subpopulations within the general population. Specific research objectives include the following: (i) Identifying the key factors that contribute to variability in human exposure; (ii) improving the accuracy of dose estimation in the general population; (iii) identifying the biological basis underlying differential responsiveness of sensitive subpopulations of humans to pollutant exposure; and (iv) determining how exposure, dose and effect information can be incorporated into risk assessment methods to account for interindividual variability.

2. Research to Enable Evaluation of Public Health Outcomes from Risk Management Actions.

Generally, the EPA has not prepared retrospective evaluations to determine if the intended public health protection benefits were realized once an EPA decision had been in place for a period of time. With the advent of the Government Performance and Results Act (GPRA) and calls for the EPA to stress and demonstrate outcome-oriented goals and measures of success, research is needed to enable evaluation of actual public health outcomes from risk management actions. Estimating public health benefits of EPA regulatory decisions and rule making, or in a more general sense evaluating public health outcomes from risk management actions, will involve a number of disciplines grounded in both the physical and social sciences, and increasingly must take into account the economic and behavioral aspects of human decision-making.

The long term goal of ORD's research on public health outcomes is to provide the scientific understanding and tools for use in evaluating the effectiveness of public health outcomes resulting from risk management actions. Research will focus on identifying, discovering, or developing the most effective methods and models; determining how they can be integrated into a decision-making framework to assist Federal, State, and local decision-makers in evaluating changes in public health as a result of risk management actions; and developing a framework to quantify such changes accurately. Specific research objectives include: (i)

Establishing the linkage between sources, environmental concentrations, exposure, adverse effects or disease, and effectiveness so that a change in a human health outcomes subsequent to a risk management action can be determined by measuring or modeling any one of these linked steps; and (ii) improving methods and models by which others can measure or model changes in public health outcomes following various risk management actions.

*Charge:* The current Charge that the Agency is asking the SAB to implement in this review follows. The final Charge may change some as a result of ongoing discussions between the Agency and the Panel. Updates will be posted on the SAB Web site: *www.epa.gov/sab.*

ORD is requesting a review by the SAB of the Human Health Research Strategy, including the following points:

a. Does the document establish the appropriate direction and research areas (*i.e.,* aggregate-cumulative risk, harmonization, susceptible subpopulations, effectiveness of public health outcomes) for a long-term, core research program on human health risk assessment?

b. Will the research that is described reduce uncertainty in the risk assessment process?

c. For the research areas selected, does the strategy provide a clear framework for a multi-disciplinary research program?

d. Does the strategy provide a logical approach for framing research to evaluate the impact of risk management decisions on human health?

Review Document Availability—The EPA research strategy for human health is documented in the Human Health Research Strategy, U.S. EPA Office of Research and Development, Internal Review Draft, May 2002. Those members of the public who wish to view the Agency draft document as they consider who might be appropriate to nominate for this panel should obtain or read it on the EPA ORD NHEERL Web site at *www.epa.gov/nheerl/humanhealth.* The public may also contact Dr. Hugh Tilson, National Health and Environmental Effects Research Laboratory by voice telephone at (919) 541–4607; fax at (919) 685–3252; or mail at Dr. Hugh Tilson, Associate Laboratory Director, NHEERL, Mail Code B30502, Research Triangle Park, NC 27711.

Dated: June 11, 2002.

**A. Robert Flaak,**

*Acting Deputy Director, EPA Science Advisory Board.*

[FR Doc. 02–15459 Filed 6–19–02; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[OPPTS–2002–0018; FRL–7181–1]**

## Access to Confidential Business Information by C-Technologies.net LLC and INADEV Corporation

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has authorized Logistics Management Institute's (LMI) subcontractors C-Technologies.net LLC, of Chantilly, VA, and INADEV Corporation, of Fairfax, VA, access to information which has been submitted to EPA under sections 4, 5, 8, and 12 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

**DATES:** Access to the confidential data submitted to EPA under sections 4, 5, 8, and 12 of TSCA occurred as a result of an approved waiver dated May 8, 2002, which requested granting C-Technologies.net LLC and INADEV Corporation immediate access to sections 4, 5, 8 and 12 of TSCA CBI.

**FOR FURTHER INFORMATION CONTACT:** By mail: Barbara Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:**

### I. Does this Notice Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may be required to conduct testing of chemical substances under the Toxic Substances Control Act (TSCA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

### II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

### III. What Action is the Agency Taking?

Under contract number GS–35F–4041G, C-Technologies.net LLC, of 14170 Newbrook Drive, Suite 201, Chantilly, VA, and INADEV Corporation, of 2812 Old Lee Highway, Suite 205, Fairfax, VA, will assist the Office of Pollution Prevention and Toxics (OPPT) in correcting problems resulting from the migration of several notes applications to new hardware and to retain performance and data integrity.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number GS–35F–4041G, C-Technologies.net LLC and INADEV Corporation will require access to CBI submitted to EPA under sections 4, 5, 8, and 12 of TSCA, to perform successfully the duties specified under the contract.

C-Technologies.net LLC and INADEV Corporation personnel were given access to information submitted to EPA under sections 4, 5, 8, and 12 of TSCA. Some of the information may be claimed or determined to be CBI.

Access to the confidential data submitted to EPA under sections 4, 5, 8, and 12 of TSCA occurred as a result of an approved waiver dated May 8, 2002, which requested granting C-Technologies.net LLC and INADEV Corporation immediate access to sections 4, 5, 8, and 12 of TSCA CBI. This waiver was necessary to allow C-Technologies.net LLC and INADEV Corporation to assist the Office of Pollution Prevention and Toxics (OPPT) in correcting problems resulting from the migration of several Notes applications to new hardware and to retain performance and data integrity.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 8, and 12 of TSCA, that the Agency may provide C-Technologies.net LLC and INADEV Corporation access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters.

C-Technologies.net LLC and INADEV Corporation will be required to adhere to all provisions of EPA's *TSCA Confidential Business Information Security Manual*.

Clearance for access to TSCA CBI under this contract may continue until March 31, 2004.

C-Technologies.net LLC and INADEV Corporation personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

**List of Subjects**

Environmental protection, Confidential business information.

Dated: June 10, 2002.

**Allan A. Abramson,**

*Director, Information Management Division, Office of Pollution Prevention and Toxics.*

[FR Doc. 02–15466 Filed 6–18–02; 8:45 am]

**BILLING CODE 6560–50–S**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7234–2]**

### Announcement of a Stakeholder Meeting on Preliminary Regulatory Determinations for Priority Contaminants on the Drinking Water Contaminant Candidate List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of a stakeholder meeting.

**SUMMARY:** The Environmental Protection Agency (EPA) has scheduled a public meeting to discuss the results of the Agency's preliminary regulatory determinations for nine CCL contaminants together with the determination process, rationale, and supporting technical information for each. The **Federal Register** notice that announced the Preliminary Regulatory Determinations for Priority Contaminants on the Drinking Water Contaminant Candidate List was published by EPA on June 3, 2002.

**DATES:** The stakeholder meeting will be held from 9 a.m. to 5:00 p.m. eastern time, on July 16, 2002.

**ADDRESSES:** The meeting will be at the Washington Plaza Hotel, phone (202) 842–1300, or (800) 424–1140, located at 10 Thomas Circle, NW (corner of M and 14th Streets) in downtown Washington, DC. The hotel is a short distance from both the McPherson Square Metro Station (Orange and Blue Lines) and Farragut North Metro Station (Red Line).

**FOR FURTHER INFORMATION CONTACT:** For technical inquiries regarding the Contaminant Candidate List Preliminary Determinations contact: Ms. Karen Wirth, (202) 564–5246, e-mail:*wirth.karen@epa.gov*; or Mr. Tom Carpenter, (202) 564–4885, e-mail:*carpenter.thomas@epa.gov*. For registration and general information about this meeting, please contact Ms. Paula Moreno at RESOLVE, Inc., 1255 23rd Street, NW., Suite 275, Washington, DC. 20037, by phone: (202) 965–6218; by fax: (202) 338–1264, or by e-mail at *pmoreno@resolv.org*. Those registered by July 8, 2002 will receive background materials prior to the meeting. Additional information on these and other EPA activities under SDWA is available at the Safe Drinking Water Hotline at (800) 426–4791.

**SUPPLEMENTARY INFORMATION:** The Safe Drinking Water Act (SDWA), as amended in 1996, directs the Environmental Protection Agency (EPA) to publish a list of contaminants (referred to as the Contaminant Candidate List, or CCL) to assist in priority-setting efforts. SDWA also directs the Agency to select five or more contaminants from the current CCL and determine by August 2001 whether or not to regulate these contaminants with a National Primary Drinking Water Regulation (NPDWR). EPA developed an approach, or protocol, for the review of CCL contaminants in consultation with stakeholders. EPA has applied this protocol to the Agency's 1998 CCL. The review focused on 8 chemical and 1 microbiological contaminants. The meeting will provide stakeholders information on EPA's protocol for the review of these 9 contaminants and EPA's preliminary determinations. Comments on the CCL preliminary regulatory determinations must be submitted in writing to the Agency's Water Docket (W–01–03 Comments Clerk) by August 2, 2002.

There will be a limited number of teleconference lines available for those who are unable to attend in person. Information about how to access these lines will accompany the pre-meeting materials to be mailed out to those who register, and also will be available prior to the day of this meeting through the previously-noted point of contact at RESOLVE, Inc. On-site registration for this meeting will occur from 8:45 a.m. to 9 a.m.

Any person needing special accommodations at this meeting, including wheelchair access, should contact the same previously-noted point of contact at RESOLVE, Inc., at least five business days before the meeting so that the Agency can make appropriate arrangements.

Dated: June 13, 2002.

**Cynthia C. Dougherty,**

*Director, Office of Ground Water and Drinking Water.*

[FR Doc. 02–15462 Filed 6–18–02; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7234–1]**

### EPA Science Advisory Board Notification of Public Advisory Committee Meetings of the SAB Executive Committee and Clean Air Scientific Advisory Committee

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that two committees of the US EPA Science Advisory Board (SAB) will meet on the dates and times noted below. All times noted are Eastern Time. All meetings are open to the public, however, seating is limited and available on a first come basis. *Important Notice:* Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office—information concerning availability of documents from the relevant Program Office (if any) is included below.

**1. Executive Committee of the EPA Science Advisory Board—July 16–17, 2002**

The Executive Committee (EC) of the US EPA Science Advisory Board (SAB) will meet on Tuesday, July 16, 2002 and Wednesday, July 17, 2002 in Classroom C–113, 109 Alexander Drive, Research Triangle Park, NC. The meeting will begin by 9:15 am on July 16 and adjourn no later than 5:00 pm on July 17, 2002.

*Purpose of the Meeting*—This meeting of the SAB Executive Committee is one in a series of periodic meetings in which the EC takes action on reports generated by SAB Committees, meets with Agency leadership, and addresses a variety of issues germane to the operation of the Board. The agenda for the July 16–17, 2002 meeting will be posted on the SAB Web site (*www.epa.gov/sab*) not later than 5 days before the meeting and is likely to include, but not be limited to the following:

a. Action on one Committee report:

*Long-Term Enhanced Surface Water Treatment Rule Proposal and Stage II Disinfection/Disinfectant By-Product Rule Proposal: An SAB Report* from the Drinking Water Committee (DWC). (*See* 66 FR 56557, November 8, 2001 for further details.)

b. Meetings with Administration officials, including

(1) Ms. Linda Fisher, Deputy Administrator (tentative)

(2) Dr. Paul Gilman, Assistant Administrator, Office of Research and Development (tentative)

c. Matters of Board business, including discussion of the following:

(1) Activities of the SAB Policies and Procedures Subcommittee

(2) An update on Membership changes for FY2003

(3) The SAB Agenda for FY2003.

*Availability of Review Materials*—Draft SAB reports will be posted on the SAB Web site (*www.epa.gov/sab*) approximately 10 business days before the date of the meeting or as soon as available. The underlying documents that are the subject of SAB reviews, however, are not available from the SAB Office but are normally available from the originating EPA office (please see FR references above for details or background materials for each report under review by the EC).

*Charge to the Executive Committee*—In its review of SAB committee and Subcommittee reports, the Executive Committee will focus on the following questions:

(a) Has the SAB adequately responded to the questions posed in the Charge?

(b) Are the statements and/or responses in the draft report clear?

(c) Are there any errors of fact in the report?

In accord with the Federal Advisory Committee Act (FACA), the public and the Agency are invited to submit written comments on these three questions that are the focus of the review. Submissions should be received by Wednesday, July 10, 2002 by Ms. Diana Pozun, EPA Science Advisory Board, Mail Code 1400A, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460. (Telephone (202) 564–4544, FAX (202) 501–0582; or via e-mail at *pozun.diana@epa.gov*). Submission by e-mail to Ms. Pozun will maximize the time available for review by the Executive Committee.

Although not required by FACA, the SAB will have a brief period available for applicable public comment. Therefore, anyone wishing to make oral comments on the three focus questions above, but that are not duplicative of the written comments, should contact the Designated Federal Officer for the Executive Committee, Mr. A. Robert Flaak (*see* contact information below) by noon Eastern Time on Wednesday, July 10, 2002.

*For Further Information*—Any member of the public wishing further information concerning this meeting or wishing to submit brief oral comments (10 minutes or less) must contact Mr. A. Robert Flaak, Acting Deputy Staff Director, EPA Science Advisory Board (1400A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone (202) 564–4546; FAX (202) 501–0852; or via e-mail at *flaak.robert@epa.gov.* Requests for oral comments must be *in writing* (e-mail, fax, or mail) and received by Mr. Flaak no later than noon Eastern Time on Wednesday, July 10, 2002.

*2. Clean Air Scientific Advisory Committee (CASAC)—July 18–19, 2002*

The Clean Air Scientific Advisory Committee (CASAC) of the US EPA Science Advisory Board (SAB) will meet on Thursday July 18 and Friday July 19, 2002. The meeting will begin at 9:15 am on July 18th and adjourn no later than 5:00 pm on July 19th and be held in EPA's Main Auditorium ( C 111), 109 Alexander Drive, Research Triangle Park, NC .

This meeting was pre-announced in 67 **Federal Register** 15802–15804, April 3, 2002.

*Purpose of the Meeting*—The CASAC Particulate Matter (PM) Review Panel will conduct a *peer review* of the *EPA Air Quality Criteria for Particulate Matter (Third External Review Draft*) prepared by EPA's National Center for Environmental Assessment (NCEA)

*Availability of Review Materials*—The review document, *EPA Air Quality Criteria for* information on the effects of airborne particulate matter (PM) on human health and welfare. To obtain a copy of the draft document, or to obtain further information concerning this document, please refer to 67 **Federal Register** 31303, May 9, 2002 for further details. The review document is not available from the EPA Science Advisory Board.

A draft meeting agenda will be available on the SAB Web site (*www.epa.gov/sab*) approximately two weeks prior to the meeting.

*For Further Information*—Any member of the public wishing further information concerning this meeting or wishing to submit brief oral comments must contact Mr. A. Robert Flaak, Acting Deputy Staff Director, EPA Science Advisory Board (1400A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone (202) 564–4546; FAX (202) 501–0852; or via e-mail at *flaak.robert@epa.gov.*

*Written Comments*—In accordance with the Federal Advisory Committee Act (FACA), the public is encouraged to submit written comments on the draft review document. Written comments must be received no later than Friday, July 12, 2002, preferably in electronic format (e-mail). Comments received after that date will be forwarded to the Committee, but will not be available for comment or discussion during the meeting. Written comments should be sent to Mr. Flaak at the above address.

*Oral Comments*—The SAB has allocated no more than three (3) hours during this meeting for applicable public comment. Requests for oral comments must be *in writing* (e-mail, fax, or mail) and received by Mr. Flaak no later than noon Eastern Time on Wednesday, July 10, 2002 in order to be included on the Agenda. The oral public comment period will be limited to three (3) hours divided among the speakers who register. Registration is on a first come basis, allowing at least five and no more than ten minutes per speaker or organization (depending on the number of registrants). Once registered, speakers may not give-up their time to other speakers. Speakers who are unable to register in time, may provide their comments in writing as noted above.

**Providing Oral or Written Comments at SAB Meetings**

It is the policy of the EPA Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated). For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the

following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM–PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution.

*General Information*—Additional information concerning the EPA Science Advisory Board, its structure, function, and composition, may be found on the SAB Web site (*http://www.epa.gov/sab*) and in *The FY2001 Annual Report of the Staff Director* which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our Web site.

*Meeting Access*—Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact the appropriate DFO at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: June 12, 2002.

**Vanessa T. Vu,**

*Director, EPA Science Advisory Board.*

[FR Doc. 02–15460 Filed 6–18–02; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7234–7]**

### Proposed Prospective Purchaser Agreement and Covenant Not to Sue Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 Regarding the Roebling Steel Superfund Site, Roebling, NJ

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed prospective purchaser agreement and opportunity for public comment.

**SUMMARY:** The United States Environmental Protection Agency (''EPA'') is proposing to enter into an administrative settlement to resolve claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9601 *et seq.* Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. This settlement is intended to resolve a prospective lessee's liability for response costs incurred by EPA at the Roebling Steel Superfund Site in Roebling, New Jersey.

**DATE:** Comments must be provided on or before July 19, 2002.

**ADDRESS:** Comments should be addressed to the U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, New York 10007–1866 and should refer to: In the Matter of the Roebling Steel Superfund Site, U.S. EPA Region II Docket No. CERCLA–02–2001–2015.

**FOR FURTHER INFORMATION:** U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, New York 10007–1866, Attention: Deborah Mellott, Esq. (212) 637–3147.

**SUPPLEMENTARY INFORMATION:** In accordance with EPA guidance, notice is hereby given of a proposed administrative settlement concerning the Roebling Steel Superfund Site, located in Roebling, Burlington County, New Jersey. CERCLA provides EPA the authority to settle certain claims for response costs incurred by the United States with the approval of the Attorney General of the United States.

The proposed settlement provides that New Jersey Transit Corporation, an agency of the State of New Jersey, will perform work at the Roebling Steel Superfund Site in return for a covenant not sue under sections 106 or 107 of CERCLA from the United States.

A copy of the proposed administrative settlement agreement and covenant not to sue, as well as background information relating to the settlement, may be obtained in person or by mail from EPA's Region II Office of Regional Counsel, 290 Broadway—17th Floor, New York, New York 10007–1866.

Dated: May 14, 2002.

**William J. Muszynski,**

*Deputy Regional Administrator, Region II.*

[FR Doc. 02–15457 Filed 6–18–02; 8:45 am]

**BILLING CODE 6560–50–U**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7234–8]**

### Prospective Purchaser Agreement and Covenant Not To Sue Under the Comprehensive Environmental Response, Compensation, and Liability Act Regarding the DeRewal Chemical Company Superfund Site, Kingwood Township, NJ

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed prospective purchaser agreement and request for public comment.

**SUMMARY:** In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9601 *et seq.*, the U.S. Environmental Protection Agency (''EPA'') announces a proposed administrative settlement with the New Jersey Department of Environmental Protection (''NJDEP'') and the Township of Kingwood, New Jersey (''Township'') concerning the DeRewal Chemical Company Superfund Site in Kingwood Township, New Jersey. The proposed administrative settlement, also known as a prospective purchaser agreement, is memorialized in an Agreement And Covenant Not To Sue (''Agreement'') between EPA, NJDEP and the Township. By this Notice, EPA is informing the public of the proposed settlement and of the opportunity to comment.

Following a CERCLA investigation at the approximately 8.4-acre Site, where a chemical storage facility was formerly situated, EPA found that the soil and shallow groundwater were contaminated with hazardous substances. EPA issued a Record of Decision selecting soil and groundwater remedies for the Site. EPA completed the soil cleanup in 1998 and is studying whether the groundwater remedy is still required.

The Agreement concerns three of five parcels of land (the ''Property'') that comprise the Site. The Township gained title to the Property following tax foreclosure actions in the 1990s and now operates a park there. Under the Agreement, NJDEP will purchase one of the parcels from the Township and conserve it as open space for recreation. The Township will convey a conservation easement to NJDEP on the two remaining parcels and maintain them as open space for recreation. Further, NJDEP and the Township will impose institutional controls on the Property and allow EPA access for remedial activities. In exchange, the United States will grant a covenant not to sue or take any other civil or administrative action against NJDEP and the Township for any and all civil liability, for injunctive relief or reimbursement of response costs pursuant to sections 106 or 107(a) of CERCLA, 42 U.S.C. 9606 or 9607(a) with respect to existing contamination present on or under the Site.

Finally, should NJDEP sell its parcel for a purpose other than conservation, the Agreement requires NJDEP to make

payments to EPA. The Agreement also requires the Township to remit payments to EPA if the Township sells, leases or uses its parcels for purpose other than conservation. EPA believes this settlement is fair and in the public interest.

EPA will consider any comments received during the comment period and may withdraw or withhold consent to the proposed settlement if comments disclose facts or consideration that indicate the proposed settlement is inappropriate, improper, or inadequate. EPA's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, New York 10007–1866. Telephone: (212) 637–3111.

Pursuant to EPA guidance, the Agreement may not be issued without the concurrence of the Assistant Attorney General for Environment and Natural Resources of the U.S. Department of Justice. The Assistant Attorney General has approved the proposed Agreement in writing.

**DATES:** Comments must be provided on or before July 19, 2002.

**ADDRESSES:** Comments should be sent to the U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, NY 10007–1866 and should refer to: DeRewal Chemical Company Superfund Site, U.S. EPA Index No. CERCLA–02–2000–2029.

**FOR FURTHER INFORMATION CONTACT:** U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, New York 10007–1866. Telephone: (212) 637–3111.

**SUPPLEMENTARY INFORMATION:** A copy of the proposed administrative settlement may be obtained in person or by mail from Lawrence Granite, U.S. Environmental Protection Agency, 290 Broadway—19th Floor, New York, NY 10007–1866. Telephone: (212) 637–4423.

Dated: March 27, 2002.

**William J. Muszynski,**

*Deputy Regional Administrator, Region 2.*

[FR Doc. 02–15458 Filed 6–18–02; 8:45 am]

**BILLING CODE 6560–50–U**

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

June 11, 2002.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Persons wishing to comment on this information collection should submit comments before August 19, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Direct all comments to Judith Boley Herman, Federal Communications Commission, 445 12th Street, SW, Room 1–C804, Washington, DC 20554 or via the internet to *jboley@fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collections contact Judith Boley Herman at 202–418–0214 or via the internet at *jboley@fcc.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control No.:* 3060–0989.

*Title:* Procedures for Applicants Requiring Section 214 Authorization for Domestic Interstate Transmission lines Acquired Through Corporate Control, 47 CFR Sections 63.01, 63.03, and 63.04.

*Form No.:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for profit.

*Number of Respondents:* 35.

*Estimated Time Per Response:* 47.29 hours.

*Total Annual Burden:* 1,655 hours.

*Annual Reporting and Recordkeeping Cost Burden:* $20,000.

*Frequency of Response:* On occasion reporting requirement.

*Needs and Uses:* The Commission sought and received emergency OMB approval for this information collection on June 4, 2002. The Commission is resubmitting this collection to obtain the full-three year approval. The Report and Order that was previously adopted, provides presumptive streamlining categories, allows for joint applications for international and domestic transfers of control, clarifies confusion about content of applications, provides timelines for streamlined transaction review, provides a pro forma transaction process, allows asset acquisition to be treated as transfers of control and deletes obsolete sections of the Commission's rules. The information will be used to ensure that applicants comply with the requirements of 47 CFR Section 214.

*OMB Control No.:* 3060–0423.

*Title:* Section 73.3588, Dismissal of Petitions to Deny or Withdrawal of Informal Objections.

*Form No.:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for profit.

*Number of Respondents:* 50 petitioners.

*Estimated Time Per Response:* 20 minutes (.33 hours)—8 hours (20 minutes consultation; 8 hours contracted attorney).

*Total Annual Burden:* 16 hours.

*Annual Reporting and Recordkeeping Cost Burden:* $42,500.

*Frequency of Response:* On occasion reporting requirement, third party disclosure requirement.

*Needs and Uses:* Section 73.3588 requires a petitioner to obtain approval from the FCC to dismiss or withdraw its petition to deny when it is filed against a renewal application and applications for new construction permits, modifications, transfers and assignments. This request for approval must contain a copy of any written agreement, an affidavit stating that the petitioner has not received any

consideration in excess of legitimate and prudent expenses in exchange for dismissing/withdrawing its petition and an itemization of the expenses for which it is seeking reimbursement. Each remaining party to any written or oral agreement must submit an affidavit within five days of the petitioner's request for approval stating that it has paid no consideration to the petitioner in excess of the petitioner's legitimate and prudent expenses. The data is used by FCC staff to ensure that a petition to deny or informal objection was filed under appropriate circumstances and not to extract payments in excess of legitimate and prudent expenses.

*OMB Control No.:* 3060–0452.

*Title:* Section 73.3589, Threats to file Petitions to Deny or Informal Objections.

*Form No.:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for profit.

*Number of Respondents:* 5 AM/FM/TV stations.

*Estimated Time Per Response:* 20 minutes (.33 hours)—1 hour (20 minutes consultation time; 1 hour contracted attorney).

*Total Annual Burden:* 5 hours.

*Annual Reporting and Recordkeeping Cost Burden:* $1,000.

*Frequency of Response:* On occasion reporting requirement.

*Needs and Uses:* Section 73.3589 requires an applicant or license to file with the FCC a copy of any written agreement related to the dismissal or withdrawal of a threat to file a petition to deny or informal objection and an affidavit certifying that neither the would-be petitioner nor any person or organization related to the would-be petitioner has not or will not receive any consideration in excess of legitimate and prudent expenses incurred in threatening to file. The data is used by FCC staff to ensure that a threat to file a petition to deny or informal objection was made under appropriate circumstances and not to extract payment in excess of legitimate and prudent expenses.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 02–15423 Filed 6–18–02; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### Deletion of Agenda Item From the June 13th Open Meeting

June 13, 2002.

The following item has been deleted from the list of agenda items scheduled for consideration at the June 13, 2002, Open Meeting and previously listed in the Commission's Notice of June 6, 2002. This item has been adopted by the Commission.

*Item No., Bureau, and Subject*

6—Wireline—*Title:* Schools and Libraries Universal Service. Competition—Support Mechanism (CC Docket No. 02–6). *Summary:* The Commission will consider an Order modifying section 54.507(a) of its rules as it pertains to unused funding.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 02–15634 Filed 6–17–02; 3:15 pm]

**BILLING CODE 6712–01–P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice of Agency Meeting; Sunshine Act

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 2:03 p.m. on Thursday, June 13, 2002, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's supervisory, corporate, and resolution activities.

In calling the meeting, the Board determined, on motion of Director John M. Reich (Appointive), seconded by Director James E. Gilleran (Director, Office of Thrift Supervision), concurred in by Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donald E. Powell, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: June 14, 2002.

Federal Deposit Insurance Corporation.

**Valerie J. Best,**

*Assistant Executive Secretary.*

[FR Doc. 02–15576 Filed 6–17–02; 12:51 pm]

**BILLING CODE 6714–01–M**

## FEDERAL MARITIME COMMISSION

### Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

*Agreement No.:* 011737–006.

*Title:* The MCA Agreement.

Parties:

Alianca Navegacao e Logistica Ltda.
Antillean Marine Shipping Corporation
CMA CGM, S.A.
Companhia Libra de Navegacao
Compania Sud Americana de Vapores S.A.
CP Ships (UK) Limited d/b/a ANZDL and d/b/a Contship Containerlines
Crowley Liner Services, Inc.
Dole Ocean Cargo Express, Inc.
Hamburg-Sud d/b/a Columbus Line and d/b/a Crowley American Transport
Hapag-Lloyd Container Linie
King Ocean Central America S.A.
King Ocean Service de Colombia S.A.
King Ocean Service de Venezuela S.A.
Lykes Lines Limited, LLC
Montemar Maritima S.A.
Nippon Yusen Kaisha
Norasia Container Line Limited
Wallenius Wilhelmsen Lines AS
TMM Lines Limited, LLC
Tecmarine Lines, Inc.
Tropical Shipping & Construction Co., Ltd.

*Synopsis:* The proposed agreement amendment adds A.P. Moller-Maersk Sealand and Safmarine Container Lines N.V. as members and includes an indemnification clause.

*Agreement No.:* 201026–002.

*Title:* New Orleans-P&O Ports France Road Terminal Lease Agreement.

Parties:

Board of Commissioners of the Port of New Orleans
P&O Ports Louisiana, Inc. d/b/a New Orleans Marine Contractors, Inc.
P&O Ports Louisiana, Inc. d/b/a P&O Ports Louisiana

*Synopsis:* The amendment extends the termination date to October 31, 2002, with an optional three-year extension.

Dated: June 14, 2002.

By Order of the Federal Maritime Commission

**Bryant L. VanBrakle,**

*Secretary.*

[FR Doc. 02–15478 Filed 6–18–02; 8:45 am]

**BILLING CODE 6730–01–P**

## FEDERAL MARITIME COMMISSION

### Ocean Transportation Intermediary License Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

| License No. | Name/address | Date reissued |
|---|---|---|
| 3189F | All Express Cargo Inc., 114–16 Rockaway Blvd., South Ozone Park, NY 11420 | March 27, 2002 |
| 14289N | BCR Freight (USA) Inc., 161 West Victoria Street, Suite 240, Long Beach, CA 90805. | April 12, 2002 |

**Sandra L. Kusumoto,**

*Director, Bureau of Consumer Complaints and Licensing.*

[FR Doc. 02–15477 Filed 6–18–02; 8:45 am]

**BILLING CODE 6730–01–P**

## FEDERAL MARITIME COMMISSION

### Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

*License Number:* 16182NF.
*Name:* Arnistics LLC.
*Address:* 171 Madison Avenue, Suite 1409, New York, NY 10016.
*Date Revoked:* September 6, 2001 and November 28, 2001.
*Reason:* Failed to maintain valid bonds.

*License Number:* 4255F.
*Name:* Colonial Storage Co. dba Logistics International.
*Address:* 9900 Fallard Court, Upper Marlboro, MD 20772–3800.
*Date Revoked:* May 1, 2002.
*Reason:* Failed to maintain a valid bond.

*License Number:* 15019N.
*Name:* Delta Cargo Corporation.
*Address:* 1507 NW 82nd Avenue, Miami, FL 33126.
*Date Revoked:* May 16, 2002.
*Reason:* Failed to maintain a valid bond.

*License Number:* 16047N.
*Name:* Dorado Shipping, Inc.
*Address:* 6807 Tamra Lane, Jacksonville, FL 32216.
*Date Revoked:* April 25, 2002.
*Reason:* Failed to maintain a valid bond.

*License Number:* 17055N.
*Name:* Eternity International LLC.
*Address:* 14168 Orange Avenue, Paramount, CA 90723.
*Date Revoked:* April 24, 2002.
*Reason:* Failed to maintain a valid bond.

*License Number:* 17196N.
*Name:* Jover Logistics (USA) Inc.
*Address:* 179–30 149th Avenue, Suite 105, Jamaica, NY 11434.
*Date Revoked:* May 8, 2002.
*Reason:* Failed to maintain a valid bond.

*License Number:* 3695F.
*Name:* Rapid Air & Ocean, Inc.
*Address:* 8601 NW 81st Road, Suite 4, Medley, FL 33166.
*Date Revoked:* March 24, 2002.
*Reason:* Failed to maintain a valid bond.

*License Number:* 4381F.
*Name:* Seiwa Kaiun U.S.A., Inc.
*Address:* 4393-L Tuller Road, Dublin, OH 43017.
*Date Revoked:* April 26, 2002.
*Reason:* Surrendered license voluntarily.

*License Number:* 15529N.
*Name:* Smartlink International, Inc.
*Address:* 184–45 147th Avenue, Suite 102, Springfield Gardens, NY 11413.
*Date Revoked:* May 1, 2002.
*Reason:* Failed to maintain a valid bond.

*License Number:* 11160N.
*Name:* Transmarine Line, Inc.
Address: A.I.O.P. Building, B/6A, Hook Creek Blvd. & 145th Ave., Valley Stream, NY 11581.
*Date Revoked:* May 1, 2002.
*Reason:* Surrendered license voluntarily.

*License Number:* 14054N.
*Name:* United (TAT) International Corp.
*Address:* 721 Brea Canyon Road, #8, Walnut, CA 91789.
*Date Revoked:* May 3, 2002.
*Reason:* Failed to maintain a valid bond.

*License Number:* 13496N.
*Name:* Worldwide Freight Systems, Inc.
*Address:* 1830 C Independence Square, Atlanta, GA 30338.
*Date Revoked:* April 30, 2002.
*Reason:* Failed to maintain a valid bond.

**Sandra L. Kusumoto,**

*Director, Bureau of Consumer Complaints and Licensing.*

[FR Doc. 02–15476 Filed 6–18–02; 8:45 am]

**BILLING CODE 6730–01–P**

## FEDERAL MARITIME COMMISSION

### Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies

**AGENCY:** Federal Maritime Commission.

**ACTION:** Extension of period for public comment on draft Information Quality Guidelines.

**SUMMARY:** On May 30, 2002, the Federal Maritime Commission (''Commission'') published a notice in the **Federal Register** (67 FR 37805) announcing the posting of draft Information Quality Guidelines) (''Guidelines'') on its Web site at *www.fmc.gov.* The draft Guidelines set forth the Commission's policies and programs for ensuring and maximizing the quality, objectivity, utility, and integrity of certain information disseminated to the public, pursuant to section 515 of the Treasury and Government Appropriations Act for Fiscal Year 2001 (Public Law 106–554, 114 Stat. 2763) and guidelines issued by the Office of Management and Budget

(''OMB''). By e-mail received June 10, 2002, OMB indicated that it has extended the deadline for the submission of agency draft final guidelines from July 1, 2002 to August 1, 2002, and encouraged agencies to use this extra time to extend the periods for public comment on draft agency guidelines. In view of the foregoing, the due date for the submission of comments on the Commissions' draft Guidelines has been extended from June 13, 2002 to July 5, 2002.

**DATES:** Submit an original and 15 copies of comments (paper), or e-mail comments as an attachment in WordPerfect 8, Microsoft Word 97, or earlier versions of these applications, no later than July 5, 2002.

**ADDRESSES:** Address all comments concerning the draft Guidelines to: Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Room 1046, Washington, DC 20573–0001. E-mail: *secretary@fmc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Bryant L. VanBrakle, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Room 1046, Washington, DC 20573–0001. E-mail: *secretary@fmc.gov.*

**Bryant L. VanBrakle,**

*Secretary.*

[FR Doc. 02–15475 Filed 6–18–02; 8:45 am]

**BILLING CODE 6730–01–M**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 3, 2002.

**A. Federal Reserve Bank of Kansas City** (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

*1. Bruce L. Bachman and Matthew C. Bachman,* both of Centralia, Kansas; to acquire voting shares of First Centralia Bancshares, Inc., Centralia, Kansas, and thereby indirectly acquire voting shares of The First National Bank of Centralia, Centralia, Kansas.

*2. Patrick Turner Rooney,* Oklahoma City, Oklahoma; to acquire voting shares of First Bancorp of Oklahoma, Inc., Tonkawa, Oklahoma, and thereby indirectly acquire voting shares of First National Bank of Oklahoma, Ponca City, Oklahoma.

Board of Governors of the Federal Reserve System, June 13, 2002.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 02–15361 Filed 6–18–02; 8:45 am]

**BILLING CODE 6210–01–S**

## OFFICE OF GOVERNMENT ETHICS

### Proposed Collection; Comment Request: Proposed Somewhat Revised OGE Form 201 Ethics Act Access Form

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Notice.

**SUMMARY:** After this first round notice and public comment period, OGE plans to submit a somewhat revised OGE Form 201, which is used by persons for requesting access to executive branch public financial disclosure reports and other covered records, to the Office of Management and Budget (OMB) for three-year approval under the Paperwork Reduction Act. This modified form will replace the existing one.

**DATES:** Comments by the agencies and the public on this proposal are invited and should be received by September 3, 2002.

**ADDRESSES:** Comments should be sent to Mary T. Donovan, Office of Administration and Information Management, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005–3917. Comments may also be sent electronically to OGE's Internet E-mail address at *usoge@oge.gov.* For E-mail messages, the subject line should include the following reference—''Paperwork comment on the proposed revised OGE Form 201.''

**FOR FURTHER INFORMATION CONTACT:** Ms. Donovan at the Office of Government Ethics; telephone: 202–208–8000, ext. 1185; TDD: 202–208–8025; FAX: 202–208–8038. A mark-up copy of the proposed revised OGE Form 201 may be obtained, without charge, by contacting Ms. Donovan.

**SUPPLEMENTARY INFORMATION:** The Office of Government Ethics is planning to submit, after this notice and comment period (with any modifications that may appear warranted), a proposed somewhat revised OGE Form 201 ''Request to Inspect or Receive Copies of SF 278 Executive Branch Personnel Public Financial Disclosure Report or Other Covered Record'' for three-year approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Once finally approved by OMB and adopted by OGE, the modified version of this OGE form will replace the existing version.

The Office of Government Ethics, as the supervising ethics office for the executive branch of the Federal Government under section 109(18)(D) of the Ethics in Government Act (the Ethics Act), 5 U.S.C. appendix 109(18)(D), is planning to modify and update the existing access form. That form, the OGE Form 201 (OMB control # 3209–0002), collects information from, and provides certain information to, persons who seek access to SF 278 reports and other covered records. The form reflects the requirements of the Ethics Act and OGE's implementing regulations that must be met by a person before access can be granted. These requirements relate to information about the identity of the requester, as well as any other person on whose behalf a record is sought, and a notification of prohibited uses of SF 278 reports. See section 105(b) and (c) of the Ethics Act, 5 U.S.C. appendix 105(b) and (c), and 5 CFR 2634.603(c) and (f) of OGE's executive branchwide regulations thereunder. Executive branch departments and agencies are encouraged to utilize the OGE Form 201, but they can, if they so choose, continue to use or develop their own forms as long as they contain all the required information.

The revisions proposed to part I of the OGE Form 201 would create: more space for requesters to enter their name, address, and organization; a request date block and an optional office FAX number block; received date and filled date blocks for agency use to facilitate internal administrative processing; and a type of applicant block to make internal processing easier. The Office of Government Ethics is also proposing a couple of minor stylistic changes to the form title (to pluralize the references to SF 278 reports and other covered records) and to reflect the new 2002 edition date, in addition to updating the OGE paperwork contact official to

reflect recent OGE organizational changes.

Also, OGE proposes to add reference in part III of the form, on ''other covered records,'' to two additional types of records that requesters may obtain by submitting the OGE Form 201. These types of ''covered records'' are: OGE-approved gifts reporting waiver request cover letters and OGE-approved public reporting waiver request cover letters for certain less than 130-day special Government employees. See sections 102(a)(2)(C) and 101(i) of the Ethics Act, 5 U.S.C. appendix 102(a)(2)(C) and 101(i) and 5 CFR 2634.304(f)(2) and 2634.205(b)(4) of OGE's executive branchwide regulations thereunder.

In addition, OGE proposes to modify the Privacy Act Statement in part II of the form. The Office of Government Ethics is in the process of updating the OGE/GOVT–1 system of records notice (covering Executive Branch Public Financial Disclosure Reports and Other Ethics Program Records, and in which completed OGE Form 201's are maintained). As a result, the Privacy Act Statement, which includes paraphrases of the routine uses, on the proposed modified OGE Form 201 will be revised. As soon as possible, a summary of the anticipated changes relevant to that OGE Form 201 statement will be prepared for inclusion with the mark-up copy of the form as proposed for revision, which is available from OGE upon request.

Once the new language in OGE's forthcoming Privacy Act regulation and systems notice is finalized (anticipated completion date is January 2003), OGE will request permission from OMB to modify the OGE Form 201 (with notice to OMB at that time) without further paperwork clearance even though the new wording will likely take effect after reclearance of the renewed form.

Finally, in part II of the form, OGE notes that it will adjust the referenced civil monetary penalty for prohibited uses of an SF 278 to which access has been gained when it is again adjusted in the next year or two. The penalty, under section 104(a) of the Ethics Act, 5 U.S.C. appendix, section 104(a), will likely be raised from the current $11,000 figure once OGE and the Department of Justice issue their next respective inflation adjustment rulemakings, anticipated in the summer or fall of 2003, in accordance with the 1996 Debt Collection Improvement Act revisions to the 1990 Federal Civil Penalties Inflation Adjustment Act. See 28 U.S.C. 2461 note. The civil monetary penalty was last adjusted in 1999 (see OGE's final rule at 64 FR 47095–47097 (August 30, 1999) and the Justice Department's final rule as codified at 5 CFR 85.3(a)(4) in particular, at 64 FR 47099–47104 on the same date). The future OGE rulemaking will again revise 5 CFR 2634.703 of the executive branch financial disclosure regulation to reflect the adjusted penalty. The Office of Government Ethics will request permission from OMB to revise the OGE Form 201 penalty amount reference once that adjustment takes effect (with notice to OMB at that time) without further paperwork clearance, even though the adjustment occurs after reclearance of the revised form. Moreover, any periodic future adjustments to that civil monetary penalty, pursuant to further rulemakings by OGE and the Justice Department under the inflation adjustment laws, will also be reflected in future editions of the form.

The mark-up copy of the OGE Form 201 as proposed for revision, which is available from OGE (see the **FOR FURTHER INFORMATION CONTACT** section above), shows all the changes that would be made.

In light of OGE's experience over the past three years (1999-2001), with a total of 667 non-Federal access requests received, the estimate of the average number of access forms expected to be filed annually at OGE by members of the public (primarily by news media, public interest groups and private citizens) is proposed to be adjusted from the current estimate of 172 to 222 (not counting access requests by other Federal agencies or Federal employees). The estimated average amount of time to complete the form, including review of the instructions, remains at ten minutes. Thus, the overall estimated annual public burden for the OGE Form 201 for forms filed at OGE will increase from 29 hours in the current OMB paperwork inventory listing (172 forms X 10 minutes per form—number rounded off) to 37 hours (222 forms X 10 minutes per form—number rounded off). For the entire executive branch, OGE estimates that the overall usage of the form each year will average some 1,600.

The Office of Government Ethics expects that the revised form should be ready, after OMB clearance, for dissemination to executive branch departments and agencies in the fall of 2002. The OGE Form 201 as revised will continue to be made available free-of-charge as a downloadable Portable Document Format (PDF) file to the public as well as departments and agencies on OGE's Internet Web site (Uniform Resource Locator address: *http://www.usoge.gov*). The Office of Government Ethics will continue to permit departments and agencies to use the copy of the OGE Form 201 available on OGE's Web site or to develop and utilize their own, electronic versions of the OGE form, provided that they precisely duplicate the original to the extent possible. Agencies can also develop their own access forms, provided all the information required by the Ethics Act and OGE regulations is placed on such forms, along with the appropriate Privacy Act and paperwork notices with any attendant clearances being obtained by the agencies therefor.

For now, OGE itself accepts filing of a completed OGE Form 201 by mail, FAX, or in person, but does not permit E-mail or Internet online transmission. Similarly, requested copies of reports or other covered records are supplied by OGE as hard (paper) copies.

Public comment is invited on each aspect of the proposed somewhat revised OGE Form 201 as set forth in this notice, including specifically views on the need for and practical utility of this proposed modified collection of information, the accuracy of OGE's burden estimate, the enhancement of quality, utility and clarity of the information collected, and the minimization of burden (including the use of information technology).

Comments received in response to this notice will be summarized for, and may be included with, the OGE request for OMB paperwork approval for this somewhat revised information collection. The comments will also become a matter of public record.

Approved: June 12, 2002.

**Amy L. Comstock,**

*Director, Office of Government Ethics.*

[FR Doc. 02–15389 Filed 6–18–02; 8:45 am]

**BILLING CODE 6345–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Meeting of the President's Council on Bioethics on June 20–21, 2002; Correction

**AGENCY:** The President's Council on Bioethics, HHS.

**ACTION:** Correction notice.

**SUMMARY:** The President's Council on Bioethics will hold its fourth meeting at which it will discuss human cloning, the patentability of human embryos, and other issues. On June 4, 2002, the President's Council on Bioethics published a notice in the **Federal Register** (67 FR 38500); this correction notice changes the times for the meeting.

**DATES:** The meeting will take place June 20, 2002, from 9:00 am to 4:45 pm ET, and June 21, 2002, from 8:30 am to 11:45 am ET.

**ADDRESSES:** Ritz-Carlton Washington, DC, 1150 22nd Street, NW., Washington, DC 20037.

PUBLIC COMMENTS: The meeting agenda will be posted at *http://www.bioethics.gov.* Written statements may be submitted by members of the public for the Council's records. Please submit statements to Ms. Diane Gianelli (tel. 202/296–4669 or e-mail info@bioethics.gov). Persons wishing to comment in person may do so during the hour set aside for this purpose beginning at 3:45 p.m. ET on Thursday, June 20, 2002. Comments will be limited to no more than five minutes per speaker or organization. Please give advance notice of such statements to Ms. Gianelli at the phone number given above, and be sure to include name, affiliation, and a brief description of the topic or nature of the statement.

**FOR FURTHER INFORMATION CONTACT:** Diane Gianelli, 202/296–4669, or visit our website at *http://www.bioethics.gov.*

Dated: June 11, 2002.

**Dean Clancy,**

*Executive Director, The President's Council on Bioethics.*

[FR Doc. 02–15350 Filed 6–18–02; 8:45 am]

**BILLING CODE 4110–60–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

**[Program Announcement No. OCS–2002–10]**

### Request for Applications Under the Office of Community Services' Fiscal Year 2002 Community Economic Development Program

**AGENCY:** Office of Community Services (OCS), Administration for Children and Families Department of Health and Human Services.

**ACTION:** Correction and Clarification.

**SUMMARY:** This document clarifies and corrects the notice that was published in the **Federal Register** on Tuesday, May 28, 2002, Part IV (67 FR 37274). It corrects a telephone number and the spelling of a street name address. It clarifies the notice by removing subsection points for Criterion VI: Project Evaluation. Also, it clarifies that references to Sub-priority Areas 1.5 and 1.6 in Attachment K, ''Guidelines for a Business Plan'' do not apply to any Priority Areas for this announcement.

**FOR FURTHER INFORMATION CONTACT:** Kaaren Turner at (202) 260–5683 or the OCS Operation Center at 1–800–281–9519 for referral to the appropriate contact person in OCS for programmatic questions or send an e-mail to *OCS@lcgnet.com.*

**Corrections**

In the **Federal Register** issue of May 28, 2002 (67 FR 37274), on page 37274, third column, remove ''FOR GENERAL QUESTIONS ON THE ANNOUNCEMENT, CONTACT: Mr. Ros Relaford, Technical Assistance Manager, OCS Operations Center, Call: 1–800–281–9516, or E-mail: *OCS@lcgnet.com*'' and add: ''FOR GENERAL QUESTIONS ON THE ANNOUNCEMENT, CONTACT:'' Mr. Ros Relaford, Technical Assistance Manager, OCS Operations Center, Call: 1–800–281–9519, or E-mail: *OCS@lcgnet.com*''.

Also, in the **Federal Register** issue of May 28, 2002 (67 FR 37274), on page 37274, in the first column, under ''Application Submission'', *Mailing and Delivery Address*:, 4th line, in the second column, 2nd paragraph, 8th line, under *Submission Instructions*; and in the 3rd column, under ''For A Copy Of Announcement, Contact:'' 2nd line, remove ''Fort Meyer Drive'', and replace with ''Fort Myer Drive''.

**Clarifications**

In the **Federal Register** issue of May 28, 2002 (67 FR 37274), on page 37285, remove all the points under the subsections (1–4) as found under ''Criterion VI; Project Evaluation''; that is column 2, end of 2nd paragraph of subsection (1), remove ''(0–2 points)''; end of subsection (2), remove ''(0–2 points)''; column 2, end of paragraph 1, subsection (3), removed ''(0–2 points)''; and column 3, end of subsection (4), remove ''(0–2 points)''.

In the **Federal Register** issue of May 28, 2002 (67 FR 37274), under Attachment K, ''Guidelines for a Business Plan,'' on page 37307, beginning of the second paragraph of the third column and ending on page 37308, end of third column, sections that reads ''Applicable to Sub-priority Area 1.5 Only,'' ''Applicable to Sub-priority Area 1.6 only'', ''Applicable to Sub-priority 2.1'' and ''e. Significant Beneficial Impact and Other Criteria,'' do not apply to any Priority Area in this notice.

Dated: June 9, 2002.

**Clarence Carter,**

*Director, Office of Community Services.*

[FR Doc. 02–15390 Filed 6–18–02; 8:45 am]

**BILLING CODE 4184–01–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### Food Advisory Committee Meeting; Cancellation

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is canceling the meeting of the Food Advisory Committee scheduled for June 20 and 21, 2002. This meeting was announced in the **Federal Register** of May 30, 2002 (67 FR 37844).

**FOR FURTHER INFORMATION CONTACT:** Constance J. Hardy, Center for Food Safety and Applied Nutrition (HFS–811), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1433, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 10564.

Dated: June 13, 2002.

**William K. Hubbard,**

*Senior Associate Commissioner for Policy, Planning, and Legislation.*

[FR Doc. 02–15488 Filed 6–14–02; 4:15 pm]

**BILLING CODE 4160–01–S**

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service (MMS)

### Outer Continental Shelf (OCS), Alaska OCS Region

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of Availability of the Draft Environmental Impact Statement (EIS) for the Proposed Oil and Gas Lease Sales in the Beaufort Sea, Alaska.

**SUMMARY:** MMS announces the availability of the draft EIS prepared by MMS for the Proposed OCS Lease Sales 186 (2003), 195 (2005), and 202 (2007) offshore Beaufort Sea, Alaska.

**DATES:** Comments on the draft EIS are due September 20, 2002. Public hearings will be held in Alaska: Barrow, July 22, 2002; Nuiqsut, July 24, 2002; Kaktovik, July 26; 2002; and Anchorage, July 30, 2002.

**FOR FURTHER INFORMATION CONTACT:** Minerals Management Service, Alaska OCS Region, 949 East 36th Avenue, Anchorage, Alaska 99508–4363, Atttention: Mr. Paul Lowry, telephone: (907) 271–6574 or toll free 1–800–764–2627.

**SUPPLEMENTARY INFORMATION:** This draft EIS assesses three lease sales in the Proposed Final 2002–2007 5-Year Oil and Gas Leasing Program for the Beaufort Sea OCS Planning Area. Sale 186 is scheduled for 2003; Sale 195 for 2005; and Sale 202 for 2007. Federal Regulations (40 CFR 1502.4) suggest analyzing similar or like proposals in a single EIS. The proposal for each sale is to offer 1,877 whole or partial lease blocks in the Beaufort Sea Planning Area, covering about 9.8 million acres (3.95 million hectares) for leasing. The proposed sale area is seaward up to 60 miles offshore of the State of Alaska submerged land boundary in the Beaufort Sea. It extends from the Canadian border on the east to near Barrow, Alaska, on the west.

*EIS Availability:* Persons interested in reviewing the Draft EIS ''OCS EIS/EA, MMS 2002–29'' (Volumes I and II) can contact the MMS Alaska OCS Region. The documents are available for public inspection between the hours of 8 a.m. and 4 p.m., Monday through Friday at: Minerals Management Service, Alaska OCS Region, Resource Center, 949 East 36th Avenue, Room 330, Anchorage, Alaska 99508–4363, telephone: (907) 271–6070, or (907) 271–6621, or toll free at 1–800–764–2627. Requests may also be sent to MMS at *akwebmaster@mms.gov.* You may obtain single copies of the draft EIS, or a CD/ROM version, or the Executive Summary from the same address. The Executive Summary (MMS 2002–30) is available in English or Native Inupiat languages.

You may look at copies of the draft EIS in the following libraries:

Alaska Pacific University, Academic Support Center Library, 4101 University Drive, Anchorage, Alaska;
Alaska Resources Library and Information Service, U.S. Department of the Interior, 3150 C Street, Suite 100, Anchorage, Alaska;
Alaska State Library, Government Publications, State Office Building, 333 Willoughby, Juneau, Alaska;
Canadian Joint Secretariat Librarian, Inuvikon Northwest Territories, Canada;
Department of Indian and Northern Affairs, Yellowknife, Northwest Territories, Canada;
Fairbanks North Star Borough, Noel Wien Library, 1215 Cowles Street, Fairbanks, Alaska;
George Francis Memorial Library, Kotzebue, Alaska;
Ilisaavik Library, Shishmaref, Alaska;
Juneau Public Library, 292 Marine Way, Juneau, Alaska;
Kaveolook School Library, Kaktovik, Alaska;
Kegoyah Kozpa Public Library, Nome, Alaska;
North Slope Borough School District, Library/Media Center, Barrow, Alaska;
Northern Alaska Environmental Center Library, 218 Driveway, Fairbanks, Alaska;
Tikigaq Library, Point Hope, Alaska;
Tuzzy Consortium Library, Barrow, Alaska;
University of Alaska Anchorage, Consortium Library, 3211 Providence Drive, Anchorage, Alaska;
University of Alaska Fairbanks, Elmer E. Rasmuson Library, Government Documents, 310 Tanana Drive, Fairbanks, Alaska;
University of Alaska Fairbanks, Geophysical Institute, Government Documents, Fairbanks, Alaska;
University of Alaska Fairbanks, Institute of Arctic Biology, 311 Irving Building, Fairbanks, Alaska;
University of Alaska, Southeast, 11120 Glacier Highway, Juneau, Alaska;
U.S. Army Corps of Engineers Library, U.S. Department of Defense, Elmendorf Air Force Base, Anchorage, Alaska;
U.S. Fish and Wildlife Service Library, 1011 East Tudor Road, Anchorage, Alaska;
Valdez Consortium Library, 200 Fairbanks Street, Valdez, Alaska;
Z.J. Loussac Library, 3600 Denali Street, Anchorage, Alaska.

*Public Hearings* Public hearings on the draft EIS will be held at the following locations on the dates and times listed:

Barrow, Alaska, Monday, July 22, 2002, Inupiat Heritage Center, Multipurpose Room, 7–9 p.m.
Nuiqsut, Alaska, Wednesday, July 24, 2002, Kisik Community Center, 7–9 p.m.
Kaktovik, Alaska, Friday, July 26, 2002, Quargi Community Center, 7–9 p.m.
Anchorage, Alaska, Tuesday, July 30, 2002, 949 East 36th Avenue, 3rd Floor 4–7 p.m.

An Inupiat translator will be available at the public hearings held in Barrow, Kaktovik, and Nuiqsut.

Oral and written comments on the draft EIS will be addressed in the final EIS. If you wish to testify at a hearing, you may register prior to the hearing to schedule a preferred time by contacting the Alaska OCS Region at the above address or Mr. Paul Lowry at (907) 271–6574 or toll free 1–800–764–2627 not later than 5 days prior to the hearing date. Every effort will be made to accommodate individuals who have not pre-registered to testify. Time limitations may make it necessary to limit the length of oral statements to 10 minutes. You may supplement an oral statement with a more complete written statement and submit it to a hearing official at the hearing or by mail until September 20, 2002. Each hearing will recess when all speakers have had an opportunity to testify. If, after the recess, there are no additional speakers, we will adjourn the hearing immediately after the recess. Written statements submitted at a hearing will be considered part of the hearing record. If you cannot attend the hearings, or if you prefer, you may submit your comments in writing to the address below.

*Written Comments* MMS requests interested parties to submit their written comments on this draft EIS to the Regional Director, Alaska OCS Region, Minerals Management Service, 949 East 36th Avenue, Room 308, Anchorage, Alaska 99508–4363. Our practice is to make comments, including the names and home addresses of respondents, available for public review. An individual commenter may ask that we withhold their name, home address, or both from the public record, and we will honor such a request to the extent allowable by law. If you submit comments and wish us to withhold such information, you must state so prominently at the beginning of your submission. We will not consider anonymous comments, and we will make available for inspection in their entirety all comments submitted by organizations or businesses or by individuals identifying themselves as representatives of organizations or businesses. The comment period ends on September 20, 2002.

Dated: May 29, 2002.

**Thomas A. Readinger,**

*Associate Director for Offshore Minerals Management.*

Dated: May 30, 2002.

**Terrence N. Martin**

*Acting Director, Office of Environmental Policy and Compliance.*

[FR Doc. 02–15392 Filed 6–18–02; 8:45 am]

**BILLING CODE 4310–MR–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Application Guidelines for the Rivers, Trails, and Conservation Assistance Program

**AGENCY:** National Park Service, Department of the Interior.

**ACTION:** Guidelines for States, local governments and non-profit organizations wishing to receive National Park Service assistance for

river conservation, trail development, and open space protection.

**SUMMARY:** The National Park Service's Rivers, Trails, and Conservation Assistance Program, also known as RTCA or Rivers & Trails, works with community groups and local and State governments to conserve rivers, preserve open space, and develop trails and greenways. RTCA works in urban, rural, and suburban communities with the goal of helping applicants achieve on-the-ground conservation successes for their projects. Our focus is on helping communities help themselves by providing expertise and experience from around the nation. From urban promenades to trails along abandoned railroad rights-of-way to wildlife corridors, our assistance in greenway efforts is wide ranging. Similarly, our assistance in river conservation spans downtown riverfronts to regional water trails to stream restoration.

RTCA staff assistance includes help in building partnerships to achieve community-set goals, assessing resources, developing concept plans, engaging public participation, and identifying potential sources of funding. On occasion RTCA provides its assistance in collaboration with regional and national nonprofit organizations to further local conservation initiatives. Although RTCA does not provide financial assistance to support project implementation, we do offer technical assistance to community partners to help them achieve their goals. Project partners may be non-profit organizations, community groups, tribes or tribal governments, and local or State government agencies. Assistance is for one year and may be renewed for a second year if warranted.

We recommend that you contact our regional program staff to discuss your interest and seek guidance before applying. Applications for RTCA assistance are competitively evaluated by our regional offices, based on how well the applications meet the following criteria:

(1) A clear anticipated outcome leading to on-the-ground success;

(2) Commitment, cooperation, and cost-sharing by interested public agencies and non-profit organizations;

(3) Opportunity for significant public involvement;

(4) Protection of significant natural and/or cultural resources and enhancement of outdoor recreational opportunities; and

(5) Consistency with the National Park Service mission and RTCA goals (see ''supplementary information'').

Application letters (one to three pages) should include the following information:

(1) *Project Title and Description:* Provide the name of the project and project location. Note who is taking responsibility for the implementation of the project. Describe briefly what will be done, why the project is important, the proposed schedule, and who will be involved. Identify what populations in your community will be served by the project. Outline the background or prior activity on the project (if any), and the current status.

(2) *Resource Importance:* Describe the most important natural, cultural, historic, scenic, and recreational resources within the project area.

(3) *Anticipated on-the-ground Results:* What specific resource will be created, conserved, enhanced or made available to the public? For Instance: How many river miles will be improved by restoration projects? How many river miles will be conserved with enhanced protection status? How many miles of multi-use trail will be created? How many acres of parkland will be created and where? How many acres of wildlife habitat will be restored?

(4) *Other Anticipated Accomplishments:* For example: an increased community commitment to stewardship, a new conservation organization, or the development of a concept plan for a trail.

(5) *Support for the Project:* Describe the support you anticipate from interested stakeholders, such as public agencies, nonprofit organizations, and landowners. List the project partners and describe their role(s) and contributions.

(6) *Rivers, Trails, and Conservation Assistance Program Role:* Describe what kind of technical assistance or role you are seeking from the RTCA program.

(7) *Contact Information:* Provide information about the key project supporter(s), including name of leader, organization, address, phone, fax, and e-mail.

Support letters from elected officials, community leaders, and cooperating organizations are strongly recommended.

Unfortunately, limited staffing does not allow us to undertake all of the excellent projects that are proposed.

**DATES:** The national deadline for projects set to start the following fiscal year (which runs from October 1 to September 30) is July 1. Regional RTCA offices may request additional information and may extend the deadline or accept applications at other times during the year. Final project selection is generally completed in early November after passage of the federal budget. In the interim our staff will acknowledge receipt of your application.

**ADDRESSES:** Please return your completed application letter to your regional RTCA Program Leader. Contact information for all of our regional offices is available through the Internet at *http://www.nps.gov/rtca.* Alternately, you may submit your application to: Chief, Rivers, Trails, and Conservation Assistance Program, National Park Service, 1849 C Street, NW, MS 3622, Washington, DC 20240, or by e-mail to *Sam_Stokes@nps.gov.* If submitted to Washington, your application will be forwarded to the appropriate regional office for review.

**FOR FURTHER INFORMATION CONTACT:** Regional RTCA Offices, as noted above, or you may also call us at 202–565–1200. For more information about RTCA and the work we are doing around the country and in your State, including case studies and regional contact information, please visit our web site at *http://www.nps.gov/rtca.*

**SUPPLEMENTARY INFORMATION:**

## Rivers, Trails, and Conservation Assistance Mission and Plan

The National Park Service preserves unimpaired the natural and cultural resources and values of the National Park System for the enjoyment, education and inspiration of this and future generations. The Park Service cooperates with partners to extend the benefits of natural and cultural resource conservation and outdoor recreation throughout the country and the world. Mission of the National Park Service, 1997.

The Rivers, Trails, and Conservation Assistance program (RTCA) implements the Service's mission in communities across America. RTCA's vision for the 21st Century is a network of protected rivers, trails, and greenways that promote quality of life and link Americans to their natural and cultural heritage in parks and beyond.

### *RTCA Goals*

Increase Protection for Rivers and Open Space and Help Establish More Trails and Greenways.

(1) Assist communities in establishing trail networks.

(2) Work to protect rivers and streams—their ecosystems and watersheds.

(3) Encourage statewide and regional conservation strategies.

(4) Promote Federal interagency coordination that benefits conservation.

*Strengthen Community Conservation Advocacy, Partnerships, and Stewardship*

(1) Help establish sustainable conservation organizations.

(2) Assist the communities of which National Parks are a part.

(3) Support conservation partnerships in obtaining funding and other resources.

*Enhance Conservation and Recreation Opportunities for All Americans*

(1) Engage in projects which reflect the nation's cultural diversity.

(2) Undertake partnership projects in urban and underserved areas.

(3) Establish a strong presence in every State.

(4) Build a staff that represents America's cultural diversity.

Dated: May 9, 2002.

**Samuel N. Stokes,**

*Chief, Rivers, Trails and Conservation Assistance Program.*

[FR Doc. 02–15360 Filed 6–18–02; 8:45 am]

**BILLING CODE 4310–70–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

### Colorado River Interim Surplus Guidelines, Notice Regarding Implementation of Guidelines

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice and correction.

**SUMMARY:** The Colorado River Interim Surplus Guidelines (Guidelines) were adopted as a result of a Record of Decision signed by the Secretary of the Interior (Secretary) and published in the **Federal Register** on January 25, 2001 (66 FR 7772–7782). The Department of the Interior (Department) has received a number of informal comments and has identified issues regarding implementation of the Guidelines. This notice identifies and addresses these issues in order to facilitate a common understanding regarding the implementation of the Guidelines for calendar year 2003. This notice also corrects a typographical/computational error in the Guidelines as published in the **Federal Register** on January 25, 2001.

**DATES:** The Secretary is not proposing to take any specific action as a result of this **Federal Register** notice. Accordingly, the Department is not establishing a specific date by which comments must be submitted. The Secretary will also accept input on the issues addressed by this **Federal Register** notice through the process under which the Annual Operating Plan for the Colorado River System Reservoirs (AOP) is developed. This process includes consultation with the Colorado River Management Work Group, a group that the Secretary consults with in order to carry out the provisions of section 602(b) of the Colorado River Basin Project Act of 1968 and section 1804(c)(3) of the Grand Canyon Protection Act of 1992.

**ADDRESSES:** You may submit written comments to the Regional Director, Lower Colorado Region, Attention: Jayne Harkins, Bureau of Reclamation, P.O. Box 61470, Boulder City, Nevada 89006–1470.

**SUPPLEMENTARY INFORMATION:** The Secretary, pursuant to applicable law including particularly the Boulder Canyon Project Act of December 28, 1928 (BCPA), and the Supreme Court opinion rendered June 3, 1963, and decree entered March 9, 1964 (Decree) in the case of Arizona v. California, et al., is vested with the responsibility to manage the mainstream waters of the Colorado River in the Lower Basin. In furtherance of this responsibility, the Department, through a notice published in the **Federal Register** on May 18, 1999 (64 FR 27008–09), initiated a process to develop specific criteria to identify those circumstances under which the Secretary would make Colorado River water available for delivery to the States of Arizona, California, and Nevada (Lower Division States or Lower Basin) in excess of the 7,500,000 acre-foot Lower Basin basic apportionment. The Department noted in that notice that ''[i]n recent years, demand for Colorado River water in Arizona, California, and Nevada has exceeded the Lower Basin's 7,500,000 basic apportionment. As a result, criteria for determining the availability of surplus [water] has become a matter of increased importance.'' (64 FR 27009). In particular, California has been using water in excess of its 4.4 million acre-foot mainstream basic apportionment established in the BCPA for decades.

The Department, through a notice published in the **Federal Register** on January 25, 2001 (66 FR 7772–7782) notified the public that the Secretary signed a Record of Decision (ROD), regarding the preferred alternative for Colorado River Interim Surplus Guidelines on January 16, 2001. The Guidelines ''implement Article III(3)(B) of the [Long Range Operating Criteria]'' adopted pursuant to the Colorado River Basin Project Act of 1968 (as published in the **Federal Register** on June 10, 1970). (65 FR 78511).

Pursuant to section 3 of the Guidelines, the Secretary utilizes the ''Guidelines to make determinations regarding Normal and Surplus conditions for the operation of Lake Mead * * * '' during ''development of the Annual Operating Plan for the Colorado River System Reservoirs (AOP).'' (66 FR 7781). The Secretary applied these Guidelines for the first time during the development of the 2002 AOP, signed by the Secretary on January 14, 2002.

In the period since adoption of the 2002 AOP, increasing attention has been focused on the provisions of the Guidelines and their application to AOP determinations that are upcoming for 2003. In particular, numerous entities have contacted the Department to discuss their views and concerns regarding the provisions of Section 5 of the Guidelines, entitled ''California's Colorado River Water Use Plan Implementation Progress.'' (66 FR 7782).

This provision of the Guidelines was included in order to assist the Secretary in the execution of the Secretary's watermaster duties on the lower Colorado River, which include facilitating adherence to the Lower Basin's allocation regime. The relationship between efforts to reduce California's reliance on surplus deliveries and the adoption of specific criteria to guide surplus determinations was established in the initial **Federal Register** notice announcing the potential development of surplus guidelines: ''Reclamation recognizes that efforts are currently underway to reduce California's reliance on surplus deliveries. Reclamation will take account of progress in that effort, or lack thereof, in the decision-making process regarding specific surplus criteria.'' (64 FR 27009). This concept was embodied in the purpose of and need for the Federal action as analyzed in Reclamation's Environmental Impact Statement regarding adoption of the Guidelines: ''Adoption of the [Guidelines] is intended to recognize California's plan to reduce reliance on surplus deliveries, to assist California in moving toward its allocated share of Colorado River water, and to avoid hindering such efforts. Implementation of [the Guidelines] would take into account progress, or lack thereof, in California's efforts to achieve these objectives.'' Final Environmental Impact Statement at 1–3 to 1–4.

Sections 5(B) and 5(C) of the Guidelines established independent conditions for performance of certain actions by entities in California, and the

implications for surplus determinations in the event that the conditions for performance are not met.

Section 5(B) of the Guidelines specifically addresses California's Quantification Settlement Agreement (QSA), a proposed agreement among the Imperial Irrigation District, the Coachella Valley Water District, the San Diego County Water Authority and The Metropolitan Water District of Southern California. The QSA is a critical agreement among the California parties to reduce California's reliance on surplus water from the Colorado River. The QSA addresses the use and transfer of Colorado River water for a period of up to seventy-five years.

With respect to execution of the QSA, section 5(B) of the Guidelines states: ''It is expected that the California Colorado River contractors will execute the Quantification Settlement Agreement (and its related documents) * * * by December 31, 2001.'' (66 FR 7782). The parties were unable to execute the QSA by this date, and over the past year, there has been increasing concern regarding the ability of the California Colorado River contractors to execute the QSA by the end of this year. Failure to execute the QSA by the end of 2002 is specifically addressed by section 5(B) of the Guidelines: ''In the event that the California contractors and the Secretary have not executed [the Quantification Settlement Agreement (and its related documents)] by December 31, 2002, the interim surplus determinations under Sections 2(B)(1) and 2(B)(2) of these Guidelines will be suspended and will instead be based upon the 70R Strategy, for either the remainder of the period identified in Section 4(A) or until such time as California completes all required actions and complies with reductions in water use reflected in Section 5(C) of these Guidelines, whichever occurs first.'' (66 FR 7782).

In light of the concern regarding the ability of the California Colorado River contractors to execute the QSA by the end of 2002, increasing attention has focused on the specific requirements of this section of the Guidelines. Some informal commentors have suggested that failure to execute the QSA would have no consequence for surplus determinations for 2003 under the Guidelines. Other commentors have observed that the Guidelines would be terminated if the QSA and its related documents were not executed by December 31, 2002. Such suggestions are inconsistent with the plain language of the Guidelines as adopted.

The Department observes that the Guidelines specifically provide that ''In the event that the California contractors and the Secretary have not executed such agreements by December 31, 2002, the interim surplus determinations under sections 2(B)(1) and 2(B)(2) of these Guidelines will be suspended and will instead be based upon the 70R Strategy * * *'' (66 FR 7782) (emphasis added). Therefore, in the event that the QSA and its related documents are not executed by December 31, 2002, as provided above, the ''determinations under sections 2(B)(1) and 2(B)(2) of these Guidelines will be suspended.'' (66 FR 7782). This suspension, under section 5(B) of the Guidelines does not suspend or terminate the Guidelines as a whole; rather, in the event of a suspension, surplus determinations are limited to sections 2(A)(1), 2(B)(3) and 2(B)(4).

Nothing in this notice is intended to address or limit the appropriate circumstances for reinstatement of sections 2(B)(1) and 2(B)(2) as the bases for annual surplus determinations. Reinstatement of these sections of the Guidelines will be made in accordance with the provisions of section 5(B), which provides that in the event of a suspension, the 70R Strategy will be the basis for surplus determinations ''for either the remainder of the period identified in Section 4(A) [i.e., until December 31, 2015] or until California completes all required actions and complies with reductions in water use reflected in section 5(C) of the[] Guidelines, whichever occurs first.'' (66 FR 7782) (emphasis added).

Section 5(C) addresses the other conditions for performance of certain actions by entities in California, *i.e.*, the specific Benchmark Quantities that California agricultural ''use would need to be at or below'' at the end of the specified calendar years. The Benchmark dates are established in three year intervals beginning in 2003.

As with the requirements in section 5(B), section 5(C) also establishes the implications for surplus determinations in the event that the Benchmark quantity conditions for performance are not met.

One of the benefits of adoption of the Guidelines was to provide ''more predictability to States and water users'' with respect to ''the Secretary's annual decision regarding the quantity of water available for delivery to the Lower Basin States.'' (64 FR 27009).

In light of the above identified concern with respect to the likelihood regarding execution of the QSA by the date established in section 5(B) of the Guidelines, one of the issues that the Secretary will be analyzing in the period between this notice and January 1, 2003 (the statutory date for transmittal of the 2003 AOP, pursuant to 43 U.S.C. § 1552(b)), will be the impact on Lower Basin users, particularly in Nevada, in the event that the Guidelines are suspended pursuant to the provisions of section 5(B).

The relevant considerations with respect to this issue include the following: (1) The ability of lower basin entities outside of California, to affect compliance with the section 5(B) requirements, (2) the need of other lower basin entities outside of California, to utilize surplus quantities in 2003 (and the relative amounts of such surplus quantities), (3) impacts on storage of water in the Colorado River reservoirs, and the impact on future deliveries to users of the waters of the Colorado River under applicable provisions of federal law and international treaty, (4) impacts on California's ability to meet applicable conditions for reinstatement of the determinations under sections 2(B)(1) and 2(B)(2).

The Department corrects a typographical/computational error in the Guidelines as published in the **Federal Register** on January 25, 2001. Specifically, the correction would replace the value of 100,000 acre-feet that appears in section 2(B)(1)(a) with the value of 120,000 acre-feet.

The basis for this correction is as follows. The **Federal Register** notice published on January 25, 2001 states that the decision made by the Secretary is ''adoption of specific interim surplus guidelines identified in the Preferred Alternative (Basin States Alternative) as analyzed in the FEIS.'' (66 FR 7773). Reclamation had earlier published information that Reclamation had received from the Colorado River Basin states of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming during the public comment period'' on the proposed adoption of the Guidelines. (65 FR 48531–48538). Reclamation crafted an alternative based on this information, which was ultimately identified as the preferred alternative.

As submitted to the Department, and published in the **Federal Register**, the information from the basin states provided in section IV(B)(1)(a) with respect to Direct Delivery Domestic Use by MWD, that offsets ''shall not be less than 400,000 af in 2001 and will be reduced by 20,000 af/yr over the Interim Period so as to equal 100,000 af in 2016.'' (65 FR 48536). When the ROD was prepared, the Department modified this provision of the proposed alternative to take into account that the Guidelines would not be in effect for 2001 AOP determinations, and would

first be applied for 2002 determinations. Accordingly, the year was modified in this provision from 2001 to 2002. (66 FR 7780). However, when this change was incorporated into the ROD, the Department did not modify the corresponding value for the end date (*i.e.*, in year 2016). The computation of a reduction of 20,000 af/year during the interim period yields a final value of 120,000 rather than the published value of 100,000.

Dated: June 13, 2002.

**Bennett W. Raley,**

*Assistant Secretary—Water and Science.*

[FR Doc. 02–15470 Filed 6–18–02; 8:45 am]

BILLING CODE 4310–MN–P

## DEPARTMENT OF JUSTICE

### Office of Justice Programs

**[OJP(OJP)–1357]**

### Supplemental Notice of Intent To Prepare an Environmental Impact Statement (EIS) and Environmental Impact Report (EIR) for a New Juvenile Justice Facility in Alameda County, CA

**AGENCY:** Office of Justice Programs, Justice.

**ACTION:** Notice of intent (NOI).

**SUMMARY:** This NOI is being published to provide additional information regarding alternatives that will be evaluated for the Alameda County (California) Juvenile Justice Facility project. The County proposes to develop a new Juvenile Justice Facility with an initial capacity for 420 beds, five juvenile courts, offices for courts administration, probation, public defender, and district attorney, plus associated support facilities (approximately 425,000 square feet of floor area). Future expansion of the facility could accommodate 450 to 540 beds and an additional juvenile court (up to 460,000 square feet total). The Juvenile Justice Facility is proposed in response to serious shortcomings in the capability of the existing facilities located in San Leandro and Oakland, California, to serve the existing and future needs of children in the County. Existing buildings in San Leandro would be demolished and building space in Oakland would be vacated following completion of the new facility.

**DATES:** Two public scoping meetings will be held on Wednesday, July 10, 2002, at the Oakland Asian Cultural Center, 388th Ninth Street at Webster, in Oakland, California.

An afternoon meeting will be held from 2 p.m. to 4 p.m. for interested and affected federal, state, and local agencies to identify major and less important issues, coordinate the schedule, and determine respective roles and responsibilities in preparation of the EIS/EIR. The public is also welcome to attend.

The evening meeting will be held from 6 p.m. to 9 p.m. The meeting will be conducted in an open house format which offers interested persons an opportunity to drop in at any time during the meeting to learn more about the project and the environmental review process. The intent of the meeting is to solicit comments from the public to identify those environmental issues that are most relevant or of most concern with respect to the implementation of the project and alternatives so that these issues can be analyzed in depth in the Draft EIS/EIR. Representatives of the independent environmental consulting firms preparing the environmental documents will be in attendance along with representatives of the Federal, State, and county governments.

Comments may also be submitted in writing, identifying relevant environmental and socioeconomic issues to be addressed in this environmental analysis. Comments and information should be mailed to Mr. Michael Houghtby of the California Board of Corrections at the address listed below. Requests to be placed on the mailing list for announcements and the Draft EIS/EIR should also be sent to Mr. Michael Houghtby. The deadline for submitting written comments is July 19, 2002.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jill Young, Environmental Coordinator, Department of Justice, Office of Justice Programs, Corrections Programs Office, 810 7th Street, NW., Washington DC 20531, Telephone (202) 353–7302, Fax (202) 307–2019.

Written comments should be directed to Mr. Michael Houghtby, Field Representative, State of California Board of Corrections, Corrections Planning and Programs Division, 600 Bercut Dr, Sacramento, CA 95814, Telephone (916) 322–7085; Fax (916) 445–5796. Each of the participating agencies will receive copies of the letters sent to Mr. Houghtby.

**SUPPLEMENTARY INFORMATION:** The proposed Juvenile Justice Facility is intended to replace the existing Alameda County Juvenile Hall, which is located in the hills of San Leandro, Alameda County, California. The existing facility was constructed in various phases with most structures dating from the 1950s to 1970s. It includes secure detention at the Juvenile Hall facility for 299 detainees, camps for low security detention, and the Chabot Community Day Center. The detention facility is constructed on a steep hillside in close proximity to the Hayward fault, an active earthquake fault with a potential for causing severe ground shaking with an estimated 32% chance of a major seismic event during the next 30 years. In addition, these facilities, which have been overcrowded, have or will soon exceed their useful, economic life and are in need of replacement, based on operational and architectural/engineering evaluations. Therefore, the facility does not meet the present or future needs of the residents, staff or community and must be replaced.

A juvenile justice system master plan completed in 1998 determined that the County needed to construct a new juvenile detention facility that would house up to 540 children at any given time. The facility would respond to the approximately 10,000 annual referrals for intake, of which 6,000 are admitted for detention in a given year. The estimated total number of beds required for a new detention facility was based on historical trends and projections, multiplied by a factor of 1.2 to account for peaking, classification and operational needs, so that the County could house youth in a facility that reflects the detainees' gender, age, and security risk, to avoid crowding, and to provide for long-term planning. The County Board of Supervisors has since revised the project to include 420 beds, with possible expansion to 450 beds.

The Juvenile Justice Facility is funded in part by Federal grant monies disbursed by the California Board of Corrections. These funds total $33,165,000, and are part of the State's allocation from the Violent Offender Incarceration and Truth-in-Sentencing (VOI/TIS) Incentive Grant Program. The County would provide additional funding from bonds, certificates of participation, and the general fund. The total cost for the Juvenile Justice Facility is estimated to be approximately $177,000,000.

The U.S. Department of Justice, the California Board of Corrections and the County of Alameda are preparing a joint Environmental Impact Statement and Environmental Impact Report (EIS/EIR) in order to satisfy the requirements of the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) concurrently. The U.S. Department of Justice is the lead federal agency under

NEPA for the preparation of the EIS/EIR and the California Board of Corrections will be preparing the EIS/EIR under a provision of NEPA that allows an agency of statewide jurisdiction with responsibility for the proposed action (pursuant to the VOI/TIS grant) to prepare an EIS. The County of Alameda will be the lead agency under CEQA for the preparation of the EIS/EIR for the Juvenile Justice Facility and related projects as appropriate. The related projects include the East County Hall of Justice and the County Office projects at the East County Government Center in Dublin.

**Alternatives**

A Notice of Intent for this project was published in the **Federal Register** on January 15, 2002. That NOI identified a proposed project site in Dublin, California, and stated that additional alternative sites could be identified during the environmental review process. The County of Alameda has since identified several other potentially feasible alternative sites for the Juvenile Justice Facility. The original site and the additional alternative sites now being considered are described below.

*No Action/No Project:* The EIS/EIR will consider the No Action/No Project Alternative, as required by NEPA and CEQA. Under such a scenario, the existing Juvenile Hall and associated support facilities would remain in their present locations and no expansion or major improvements would occur.

*East County Government Center Site:* The County of Alameda owns a vacant 40-acre site, known as the East County Government Center site, located at the northern terminus of Hacienda Drive in Dublin, California. The proposed Alameda County Juvenile Justice Facility project could be one component of that Government Center. Other projects on that site could include a new Hall of Justice (including 15 to 19 adult courts and related functions in a 250,000 square-foot building) and other County offices (approximately 200,000 square feet).

*Pardee & Swan Site:* The Port of Oakland owns a vacant 34-acre property at the northern terminus of Pardee Drive at Swan Way in Oakland, California. If the County were to acquire this site, it could develop a Juvenile Justice Facility similar to the plan for the East County Government Center site in Dublin. Existing juvenile justice facilities in Oakland would be vacated, the existing facility in San Leandro would be demolished, and all of the County's juvenile justice functions would be consolidated to this location.

*Glenn Dyer Detention Center:* This site is a half-block area in downtown Oakland, located at 550 Sixth Street. It is currently occupied by the County's North County Jail for adults (also known as the Glenn Dyer Detention Facility). This facility will be closing in the coming months; therefore, the County is exploring the possibility of converting the eight-story facility into a juvenile detention center. The facility would not accommodate all of the planned court and office support functions, so some of the existing juvenile justice functions in downtown Oakland would remain at their current locations. The existing functions in San Leandro would be relocated to downtown Oakland and that existing facility would be demolished.

*Existing San Leandro Property:* This 80-acre site is located at 2200 Fairmont Drive in San Leandro, California. It is presently occupied by the existing Juvenile Hall, a day facility, and two detention camps. A new detention center, courts, administration, and other functions could be developed in an area that is currently occupied by one of the juvenile camps. The site conditions present certain constraints that could limit the size of the facility. Existing office and court uses in Oakland would be relocated to the new facility, and the existing Juvenile Hall would be demolished if this alternative were implemented.

*Size Variations:* At any of the alternative sites described above, the County could develop a Juvenile Justice Facility that would accommodate fewer or more detainees. As the number of detainees changes, so would the number of courts and other associated functions and spaces, though not is strict proportion to the number of beds. The EIS/EIR will consider a range of sizes, from 330 beds (approximately the same size as the existing facility in San Leandro) to 540 beds (based on projections contained in the County's Needs Assessment and grant application).

*Additional Alternative:* In addition to the Juvenile Justice Facility alternatives described in this NOI, the County of Alameda will be evaluating an alternative site for the proposed East County Hall of Justice as part of the EIR under its CEQA responsibilities. That site, known as the Transit Center Site, comprises 20 acres of land on two parcels located at Arnold Road and Dublin Blvd. in the City of Dublin, California. The two vacant properties could be used separately or in combination for the development of a 15- to 19-court building, parking, and plaza areas.

**Deborah Daniels,**

*Assistant Attorney General.*

[FR Doc. 02–15363 Filed 6–18–02; 8:45 am]

**BILLING CODE 4410–18–P**

## DEPARTMENT OF JUSTICE

### Office of Justice Programs

**[OJP(OJP)–1345]**

### Notice of Intent to Prepare an Environmental Impact Statement For The Expansion of a Juvenile Hall in Sacramento County, California

**AGENCY:** Office of Justice Programs, Justice.

**ACTION:** Notice of intent (NOI).

**SUMMARY:** Pursuant to the requirements of the National Environmental Policy Act (NEPA), codified at 42 U.S.C. 4321 *et seq.*, the U.S. Department of Justice, Office of Justice Programs, Corrections Program Office (OJP/CPO) announces the Notice of Intent (NOI) for the preparation of an EIS for the Expansion of a Juvenile Hall in Sacramento County, California. The construction and operation of the Juvenile Hall is being proposed by Sacramento County, which is applying for OHP/CPO grants funds obtained by the California Board of Corrections (BOC) through the Violent Offender Incarceration/Truth-in-Sentencing (VOI/TIS) Incentive Grants Program. This project is subject to NEPA review because it may be funded in part with federal funding available under the VOI/TIS Grant Program.

**DATES:** During the preparation of the draft EIS there will be opportunities for public involvement in order to determine the issues to be examined. Two public scoping meetings will be held on July 9, 2002. The first meeting will be held from 2–4 p.m. in the 5th Floor Training Room at 800 H Street, Sacramento California. The second meeting will be held from 6–8 p.m. in the Assembly Room at 4100 Traffic Way, Sacramento, California.

The meetings will be held to solicit input on the scope of the EIS to be conducted, and to identify significant issues related to the proposed action. The purpose of the agency Scoping Meetings will be to gather comments from interested and affected agencies, and the public. Maps and information on the proposed action will be available at the meetings. The scoping meetings are being held for individuals to formally express their views on the proposed action and to identify those

environmental issues or concerns with respect to implementation of the proposed action and its alternatives so that these issues can be analyzed in depth in the EIS. Community input will be solicited throughout this process, and community comments will be incorporated into the decision-making process.

**FOR FURTHER INFORMATION CONTACT:** Public notice will be given concerning the availability of the draft EIS for public review and comment. Questions concerning the proposed action and the draft EIS may be directed to: Jill Young, Environmental Coordinator, Corrections Program Office, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW., Washington DC 20531, Telephone: 202.307–3914, Telefacimile 202.307–2019, or Michael A. Houghtby, Field Representative, State of California Board of Correction, Corrections Planning and Programs Division, 600 Bercut Drive, Sacramento, CA 95814, Telephone: 916.322–7085, Telefacimile: 916.445.5796, or Antonia Barry, Department of Environmental Review and Assessment, County of Sacramento, 827 7th Street, Sacramento, CA 95814, Telephone: 916.874–6990, Telefacimile: 916.874–8343.

**SUPPLEMENTARY INFORMATION:**

**Proposed Action**

Sacramento County is proposing to expand and operate its Juvenile Hall to better serve the community and the existing and future juvenile justice populations. The need for this action is based on the conditions of the existing juvenile justice facilities, additional space requirements needed to accommodate projected growth rates in the at risk youth population that will enter the juvenile justice system, and the County's desire to increase efficiency by expanding the existing facility rather than fragmenting the facilities to different locations. The Proposed Action would include the construction of two 30-bed housing units within the existing footprint, a 30-bed housing unit adjacent to the existing building, security modifications, a new visitor's center, a central plant expansion, classroom, dayroom and exam room additions, expansion of food service, laundry, staff dining and training rooms, expansion of the warehouse and a new space for the relocation of the intake/release function.

The project also allows for the future construction of 8 podular designed sleeping rooms, each consisting of 30 beds, for a total of 240 additional beds. These additional beds would be constructed sometime within the next 15 years, when funds become available and after the initial construction of the 90 beds described above.

**Alternatives**

The draft EIS will address the potential impacts of the 'no action' alternative, and one or more alternatives involving the construction of the proposed expansion at the existing site.

**Tracy A. Henke for Deborah J. Daniels,**

*Assistant Attorney General.*

[FR Doc. 02–15362 Filed 6–18–02; 8:45 am]

**BILLING CODE 4410–18–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–41,517]**

### ADS Machinery Corp., Warren, Ohio; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 28, 2002 in response to a worker petition, which was filed on behalf of workers at ADS Machinery Corp., Warren, Ohio.

The petitioning group of workers are subject to an ongoing investigation for which a determination has not yet been issued (TA–W–41,119). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 29th day of May, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15451 Filed 6–18–02; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–40,709]**

### Agilent Technologies, Roseville, California; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 4, 2002, in response to a petition filed on behalf of workers at Agilent Technologies, Roseville, California.

The investigation revealed that one of the three petitioners was not an employee of the Roseville, California plant. Only a company official or authorized representative such as a union representative may submit a Trade Adjustment Assistance petition for more than one location of a company.

Consequently further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 6th day of May, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15435 Filed 6–18–02; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–41,224]**

### Alox Corporation, Niagara Falls, New York; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 1, 2002 in response to a petition that was filed by a company official on behalf of workers at Alox Corporation, Niagara Falls, New York.

The date of the petition is March 4, 2002. In accordance with section 223(b) of the Act, no certification may apply to any worker whose last total or partial separation from the subject firm occurred before March 4, 2001, one year prior to the date of the petition. The company official reported that in March 2000 the company was sold, at which time the workers were separated from employment with Alox Corporation.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 15th day of May, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15440 Filed 6–18–02; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–40,513 and TA–W–40,513A]**

### American Power Conversion, East Providence, RI and American Power Conversion West Warwick, RI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was

initiated on December 31, 2001 in response to a worker petition, which was filed on behalf of workers at American Power Conversion, East Providence and West Warwick, Rhode Island.

The workers' petition regarding the investigation is invalid. The petitioners are not company officials, nor were the petitions filed by three workers at each of the subject firm locations. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 21st day of May, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15433 Filed 6–18–02; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–41,441]**

### Amerock, Rockford, Illinois; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 29, 2002, in response to a petition filed by a company official on behalf of workers at Amerock, Rockford, Illinois.

The company official submitting the petition has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 13th day of May, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15450 Filed 6–18–02; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–40,647]**

### Biltwell Clothing Co., Farmington, Missouri; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 28, 2002 in response to a worker petition, which was filed by the company on behalf of workers at Biltwell Clothing Co., Farmington, Missouri.

An active certification covering the petitioning group of workers remains in effect (TA–W–39,244). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 3rd day of May, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15434 Filed 6–18–02; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–41,333]**

### BOC Edwards-Stokes Vacuum, Philadelphia, PA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 15, 2002 in response to a petition that was filed by a company official on behalf of workers at BOC Edwards—Stokes Vacuum, Philadelphia, Pennsylvania.

The company official requested that the investigation be terminated. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 13th day of May, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15448 Filed 6–18–02; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–40,585]**

### Center Finishing, Jersey City, NJ; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 1, 2002 in response to a worker petition, which was filed by the Union of Needletrades, Industrial and Textile Employees (UNITE) on behalf of workers at Center Finishing, Jersey City, New Jersey.

The Department of Labor was unable to locate an official of the company to obtain the information necessary to render a decision.

Signed in Washington, DC, this 13th day of May, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15444 Filed 6–18–02; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–40,881]**

### Choctaw Electronics Enterprise, Philadelphia, MS; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 4, 2002, in response to a worker petition which was filed on behalf of workers at Choctaw Electronics Enterprise, Philadelphia, Mississippi.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 21st day of May, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15445 Filed 6–18–02; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–41,542]**

### Fashion Sportswear Corp., Fall River, MA; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 13, 2002 in response to a worker petition, which was filed on behalf of workers at Fashion Sportswear Corp., Fall River, Massachusetts.

Two of three workers did not complete their contact information (name, address, telephone number, and date of separation), as required in the TAA petition form. The petition is therefore, deemed invalid. Consequently, the investigation has been terminated.

Signed in Washington, DC this 29th day of May, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15452 Filed 6–18–02; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–41,290]**

### GE Transportation Services, Global Services, Formerly Harmony Industries, Grain Valley, Missouri; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 11, 2002, in response to a petition filed by workers on behalf of all workers at GE Transportation Systems, Global Signaling, formerly Harmony Industries, Grain Valley, Missouri.

The petition group of workers is under an existing investigation for which a determination has not being issued (TA–W–40,621). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 13th day of May, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15447 Filed 6–18–02; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–41,207]**

### General Manufacturing Company, Opp, Alabama; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 1, 2002, in response to a petition filed by a company official on behalf of workers at General Manufacturing Company, Opp, Alabama.

The date of the petition is February 22, 2002. In accordance with section 223(b) of the Act, no certification may apply to any worker whose last total or partial separation from the subject firm occurred before February 22, 2001, one year prior to the date of the petition. The company official reported that no production occurred after 1999.

Consequently, further investigation would serve no purpose, and the petition is terminated.

Signed in Washington, DC, this 14th day of May, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15439 Filed 6–18–02; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–41,138]**

### Huntsman Polymers Corporation, Odessa, Texas; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 25, 2002, in response to a petition filed on behalf of workers at Huntsman Polymers, Odessa, Texas.

Petition TA–W–41,138 is a duplicate of a previous petition (TA–W–39,780), which was certified on August 29, 2001. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 3rd day of May, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15438 Filed 6–18–02; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–41,573]**

### J. R. Simplot Company, Don Plant, Pocatello, Idaho; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 20, 2002 in response to a worker petition which was filed by Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 8–632 on behalf of workers at J. R. Simplot Company, Don Plant, Pocatello, Idaho.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 31st day of May, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15442 Filed 6–18–02; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–41,201]**

### Mansfield Plumbing Products, LLC Kilgore, TX; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 1, 2002, in response to a petition filed by the company on behalf of workers at Mansfield Plumbing Products, LLC, Kilgore, Texas.

The petition has been deemed invalid. One of the three petitioning group of workers was separated from the subject firm more than one year prior to the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 13th day of May 2002.

**Linda G. Poole,**

*Certifying Officer, Division, Of Trade Adjustment Assistance.*

[FR Doc. 02–15446 Filed 6–18–02; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–40,778]**

### NACCO Materials Handling Group, Inc.; Greenville, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 11, 2002, in response to a worker petition, which was filed by the company on behalf of workers at NACCO Materials Handling Group, Inc., Greenville, North Carolina.

The company has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 16th day of May, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15436 Filed 6–18–02; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

## Employment and Training Administration

**[TA–W–39,512]**

## Royce Hosier Mills, Inc., High Point, NC; Notice of Revised Determination on Remand

The United States Court of International Trade (USCIT) granted the Secretary of Labor's motion for voluntary remand for further investigation of the negative determination in *Former Employees of Royce Hosiery Mills, Inc.* v. *U.S. Secretary of Labor* (Court No. 02–00252).

The Department's initial denial of the petition for employees of Royce Hosiery Mills, Inc., High Point, North Carolina was issued on July 6, 2001 and published in the **Federal Register** on July 26, 2001 (66 FR 39055). The denial was based on the fact that criterion (3) of the Group Eligibility Requirements of section 222 of the Trade Act of 1974, as amended, was not met. Increased imports did not contribute importantly to worker separations at the subject firm. The immediate cause of the worker separations at the subject firm was related to the transfer of production to other domestic facilities.

On August 28, 2001, the petitioner requested administrative reconsideration of the Department's denial, which also resulted in the dismissal of the application for reconsideration. The dismissal was issued on January 24, 2002, and published in the **Federal Register** on February 5, 2002 (67 FR 5297).

On remand, the Department obtained new information and clarification from the company regarding the work done at the High Point facility. The investigation revealed that the subject workers produced socks (dyed, boarded, paired, inspected, packaged and shipped socks). The company further revealed that the company increased their imports of socks ''like or directly competitive'' with what the subject plant produced during the relevant period.

**Conclusion**

After careful review of the additional facts obtained on remand, I conclude that there were increased imports of articles like or directly competitive with those produced by the subject firm that contributed importantly to the worker separations and sales or production declines at the subject facility. In accordance with the provisions of the Trade Act, I make the following certification:

All workers of Royce Hosiery Mills, Inc., High Point, North Carolina who became totally or partially separated from employment on or after June 6, 2000, through two years from the issuance of this revised determination, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 4th day of June 2002.

**Edward A. Tomchick,**

*Director, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15443 Filed 6–18–02; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

## Employment and Training Administration

**[TA–W–40,866]**

## Tuscarora, Cortland, New York; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 25, 2002, in response to a petition filed by a company official on behalf of workers at Tuscarora, Cortland, New York.

The petitioner submitting the petition has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 23rd day of May, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15437 Filed 6–18–02; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

## Employment and Training Administration

**[TA–W–41,340]**

## Westwood Lighting, El Paso, Texas; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 15, 2002, in response to a petition filed by a company official on behalf of workers at Westwood Lighting, El Paso, Texas.

The company official submitting the petition has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 23rd day of May, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15441 Filed 6–18–02; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

## Employment and Training Administration

**[TA–W–41,372]**

## XESystems, Inc., East Rochester, New York; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 22, 2002, in response to a worker petition, which was filed on behalf of workers at XESystems, Inc., East Rochester, New York.

A negative determination applicable to the petitioning group of workers was issued on March 29, 2002 (TA–W–40,974). No new information is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 13th day of May, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 02–15449 Filed 6–18–02; 8:45 am]

**BILLING CODE 4510–30–P**

## FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

### Sunshine Act Meeting

June 10, 2002.

*Time and Date:* 10:00 a.m., Wednesday, June 19, 2002.

*Place:* Room 6005, 6th Floor, 1730 K Street, NW, Washington, DC.

*Status:* Closed [Pursuant to 5 U.S.C. 552b(c)(10)].

*Matters To Be Considered:* It was determined by a majority vote of the Commission that the Commission consider and act upon the following in closed session:

1. *Douglas R. Rushford Trucking,* Docket No. YORK 99–39–M (Issues include whether the judge erred by failing to follow the Commission's remand instructions in assessing a penalty).

Any person attending the open portion of the meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and § 2706.160(d).

*Contact Person for More Information:* Jean Ellen, (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

**Jean H. Ellen,**

*Chief Docket Clerk.*

[FR Doc. 02–15522 Filed 6–14–02; 8:45 am]

**BILLING CODE 6735–01–M**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 150–00004, General License /10 CFR 150.20, EA–01–271]**

### Decisive Testing, Inc., San Diego, California; Order Imposing Civil Monetary Penalty

**I**

Decisive Testing, Inc. (Licensee) is the holder of California Radioactive Material License No. 1836–37, which authorizes the Licensee to use sealed sources containing byproduct material to conduct industrial radiography. California is an Agreement State as defined by 10 CFR 150.3(b) of the NRC's regulations. Pursuant to 10 CFR 150.20 of the NRC's regulations, the Licensee is granted a general license to conduct the same activity in areas of exclusive Federal jurisdiction provided the requirements of 10 CFR 150.20(b) have been met.

**II**

An inspection and an investigation of the Licensee's activities were completed in September 2001. The results of the inspection and the investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated February 27, 2002. The Notice stated the nature of the violation, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violation.

The Licensee responded to the Notice in a letter dated March 21, 2002. In its response, the Licensee admitted the violation, but requested that discretion be exercised and that no civil penalty be assessed.

**III**

After consideration of the Licensee's responses and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined that violations cited in the Notice were willful, and that the civil penalty proposed for the violations should be imposed.

**IV**

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered that:*

The Licensee pay a civil penalty in the amount of $6,000 within 30 days of the date of this Order, in accordance with NUREG/BR–0254. In addition, at the time of making the payment, the licensee shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

**V**

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a ''Request for an Enforcement Hearing'' and shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issue to be considered at such hearing shall be whether on the basis of the violation admitted by the Licensee, this Order should be sustained.

Dated this 11th day of June 2002.

For the Nuclear Regulatory Commission.

**Frank J. Congel,**

*Director, Office of Enforcement.*

### Appendix to Order Imposing Civil Penalty

**NRC Evaluation and Conclusion of Licensee's Request for Mitigation of Civil Penalty**

On February 27, 2002, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for a violation identified during an NRC inspection and investigation. Decisive Testing, Inc. (DTI or Licensee) responded to the Notice on March 21, 2002. The Licensee admitted the violation, but requested that discretion be exercised and no civil penalty assessed. The NRC's evaluation and conclusion regarding the licensee's response are as follows:

*Summary of Licensee's Request for Mitigation*

DTI admitted the violation, but requested that discretion be exercised and that no civil penalty be assessed. DTI based this request on its statement that there was no threat to public health, that the situation was corrected before the NRC became involved, and that management had no reason to suspect that a responsible employee would schedule covered work without first making certain the reciprocity form was filed and the fee paid. DTI suggested that a violation such as this with a very low safety significance might best be addressed by a letter of reprimand. DTI also stated that the violation does not fit neatly into Table 1A of the NRC Enforcement Policy, arguing that Decisive Testing is not the equivalent of the other facilities listed in the same category, and that

this type of violation is not listed in the examples of violations included in the supplements to NRC's Enforcement Policy. DTI stated that the penalty appeared to be more severe than was intended by the authors of the regulation. DTI also questioned the characterization of the violation as having occurred on at least six occasions, because this may be viewed as implying the suspicion of additional violations.

*NRC Evaluation of Licensee's Request for Mitigation*

The NRC agrees that the violation, in and of itself, posed no threat to public health and safety. It is an administrative violation, but one on which NRC has intentionally placed some importance. The NRC considers this type of violation important because without proper notification, the NRC cannot conduct inspections of Agreement State licensees to assure that such licensees are conducting their activities safely and in accordance with NRC requirements.

With regard to DTI's statement that management had no reason to suspect that a responsible employee would schedule covered work without first making certain the reciprocity form was filed and the fee paid, the NRC notes its Enforcement Policy holds licensees accountable for the actions, or omissions, of their employees. It is incumbent on employers to assure that their employees are abiding by NRC requirements in the conduct of NRC-licensed activities.

With regard to DTI's several statements regarding the treatment of this violation within the NRC's Enforcement Policy, the NRC assures DTI that the violation was properly classified at Severity Level III, and that a specific example of this violation is contained in Supplement VI of the policy. Supplement VI, example C.7, states, ''A failure to submit an NRC Form 241 as required by 10 CFR 150.20.'' In addition, DTI was properly classified as an industrial radiography licensee in Table 1A of the Enforcement Policy.

For the reasons discussed above, the NRC has intentionally placed importance on this type of violation. In this particular case, the violation was more significant because it was committed willfully. NRC's investigation identified six examples of this violation, and each of the six examples was cited in the violation because each involved a separate opportunity for DTI's assistant radiation safety officer to comply with NRC's requirements and file the necessary form. However, for the purpose of the civil penalty, the six examples were treated as one violation and assessed one civil penalty.

Thus, the NRC concludes that the violation and civil penalty were correctly assessed and were in accordance with the NRC's Enforcement Policy.

*NRC Conclusion*

The NRC concludes that DTI has not provided a sufficient basis for mitigation of the proposed civil penalty. Consequently, the proposed civil penalty in the amount of $6,000 should be imposed by Order.

[FR Doc. 02–15425 Filed 6–18–02; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

### Notice of Public Meeting of the Interagency Steering Committee on Radiation Standards

**AGENCIES:** Nuclear Regulatory Commission and Environmental Protection Agency.

**ACTION:** Notice of public meeting.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) will host a meeting of the Interagency Steering Committee on Radiation Standards (ISCORS) on July 9, 2002, in Rockville, Maryland. The purpose of ISCORS is to foster early resolution and coordination of regulatory issues associated with radiation standards. Agencies represented on ISCORS include the NRC, U.S. Environmental Protection Agency, U.S. Department of Energy, U.S. Department of Defense, U.S. Department of Transportation, the Occupational Safety and Health Administration of the U.S. Department of Labor, the U.S. Department of Health and Human Services. The Office of Science and Technology Policy, the Office of Management and Budget, and a State Department representative may be observers at meetings. The objectives of ISCORS are to: (1) Facilitate a consensus on allowable levels of radiation risk to the public and workers; (2) promote consistent and scientifically sound risk assessment and risk management approaches in setting and implementing standards for occupational and public protection from ionizing radiation; (3) promote completeness and coherence of Federal standards for radiation protection; and (4) identify interagency radiation protection issues and coordinate their resolution. ISCORS meetings include presentations by the chairs of the subcommittees and discussions of current radiation protection issues. Committee meetings normally involve pre-decisional intra-governmental discussions and, as such, are normally not open for observation by members of the public or media. One of the four ISCORS meetings each year is open to all interested members of the public. There will be time on the agenda for members of the public to provide comments. Summaries of previous ISCORS meetings are available at the ISCORS web site, *http://www.iscors.org* and the final agenda for the July meeting will be posted shortly before the meeting.

**DATES:** The meeting will be held from 1 p.m. to 5 p.m. on Tuesday, July 9, 2002.

**ADDRESSES:** The meeting will be held in the NRC auditorium, at Two White Flint North, 11545 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION, CONTACT:** James Kennedy, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301–415–6668; fax 301–415–5398; E-mail *jek1@nrc.gov.*

**SUPPLEMENTARY INFORMATION:** Visitor parking around the NRC building is limited; however, the NRC auditorium is located adjacent to the White Flint Metro Station on the Red Line.

Dated at Rockville, MD, this 12th day of June, 2002.

For the Nuclear Regulatory Commission.

**John T. Greeves,**

*Director, Division of Waste Management Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 02–15424 Filed 6–18–02; 8:45 am]

**BILLING CODE 7590–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

**Extension**

Rule 17Ac3–1(a) and Form TA–W; SEC File No. 270–96; OMB Control No. 3235–0151.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for approval of extension on Rule 17Ac3–1(a) and Form TA–W.

Subsection (c)(3)(C) of section 17A of the Securities Exchange Act of 1934 (''Exchange Act'') authorizes transfer agents registered with an appropriate regulatory agency (''ARA'') to withdraw from registration by filing with the ARA a written notice of withdrawal and by agreeing to such terms and conditions as the ARA deems necessary or appropriate in the public interest, for the protection of investors, or in the furtherance of the purposes of Section 17A.

In order to implement section 17A(c)(3)(C) of the Exchange Act the Commission, on September 1, 1977, promulgated Rule 17Ac3–1(a) and accompanying Form TA–W. Rule 17Ac3–1(a) provides that notice of

withdrawal from registration as a transfer agent with the Commission shall be filed on Form TA–W. Form TA–W requires the withdrawing transfer agent to provide the Commission with certain information, including (1) the locations where transfer agent activities are or were performed; (2) the reasons for ceasing the performance of such activities; (3) disclosure of unsatisfied judgments or liens; and (4) information regarding successor transfer agents.

The Commission uses the information disclosed on Form TA–W to determine whether the registered transfer agent applying for withdrawal from registration as a transfer agent should be allowed to deregister and, if so, whether the Commission should attach to the granting of the application any terms or conditions necessary or appropriate in the public interest, for the protection of investors, or in furtherance of the purposes of section 17A of the Exchange Act. Without Rule 17Ac3–1(a) and Form TA–W, transfer agents registered with the Commission would not have a means for voluntary deregistration when necessary or appropriate to do so.

Respondents file approximately fifty Form TA–Ws with the Commission annually. The filing of a Form TA–W occurs only once, when a transfer agent is seeking deregistration. In view of the ready availability of the information requested by Form TA–W, its short and simple presentation, and the Commission's experience with the Form, we estimate that approximately one half hour is required to complete Form TA–W, including clerical time. Thus, the total burden of twenty-five hours of preparation for all transfer agents seeking deregistration in any one year is negligible.

The Commission estimates a cost of approximately $35 for each half hour required to complete a Form TA–W. Therefore, based upon a total of twenty-five hours, transfer agents spend approximately $1,750 each year to complete thirty Form TA–Ws.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: June 11, 2002.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02–15427 Filed 6–18–02; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the Boston Stock Exchange, Inc. (I.D. Systems, Inc., Common Stock, $.01 Par Value) File No. 1–15087

June 13, 2002.

I.D. Systems, Inc., a Delaware corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.01 par value (''Security''), from listing and registration on the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'').

The Issuer stated in its application that it has complied with the Rules of the BSE that govern the removal of securities from listing and registration on the Exchange. In making the decision to withdraw the Security from listing and registration on the BSE, the Issuer considered the relative liquidity provided by the BSE versus other securities exchanges and the direct and indirect cost associated with maintaining multiple listings. The Issuer stated in its application that the Security has been listed on the Nasdaq SmallCap Market since July 1999. The Issuer represented that it will maintain its listing on the Nasdaq SmallCap Market.

The Issuer's application relates solely to the Security's withdrawal from listing on the BSE and from registration under section 12(b) of the Act[3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before July 8, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the BSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 02–15382 Filed 6–18–02; 8:45 am]

**BILLING CODE 8010–01–P**

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–46073; File No. SR–CBOE–2002–31]**

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Handling of Customer Orders

June 13, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 10, 2002, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The CBOE proposes to amend its rules to adopt an order handling facility to allow customer orders larger than CBOE's ''auto-ex'' size to automatically secure CBOE's disseminated prices up to the disseminated size of the Exchange, while allowing for potential price improvement. The text of the proposed rule change is set forth below. Proposed new language is *italicized.*

* * * * *

Chicago Board Options Exchange, Incorporated Rules

* * * * *

*Rule 6.10 LOU System Operations*

*This Rule governs the operation of the Large Order Utility (''LOU'') system.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

*(a) Definitions. For purposes of this Rule, the following definitions shall apply.*

*(i) The term ''LOU'' means a facility of the Exchange that provides order routing, handling, and execution for eligible options orders routed electronically to the Exchange.*

*(ii) The term ''In-Person Wheel'' means an order allocation mechanism whereby orders are evenly assigned to Market-Makers logged onto the In-Person Wheel for up to five contracts per Market-Maker for each order.*

*(iii) The term ''Linkage Order'' means an order routed to the Exchange through the Options Intermarket Linkage pursuant to the Plan for the Purpose of Creating and Operating an Intermarket Options Linkage.*

*(b) LOU Eligibility.*

*The following criteria must be met for an order to be eligible for LOU:*

*(i) The order must be a market order or marketable limit order that is not for an account in which a member, or any non-member broker-dealer (including foreign broker-dealer) has an interest;*

*(ii) The order must be of a size greater than the RAES eligibility limit for the subject option series as established pursuant to Rule 6.8(c);*

*(iii) the order may not be a Linkage Order;*

*(iv) at the time the order is received, the Exchange must be disseminating a quote at the national best bid or offer (NBBO) for the appropriate side of the market;*

*(v) at the time the order is received, the Exchange's disseminated quote may not be a manual quote;*

*(vi) the order must be in an option class which is designated as subject to the terms of Rule 6.8.B concerning booked orders; and,*

*(vii) the order must be in an option class designated by the appropriate FPC as subject to this Rule 6.10.*

*The senior person then in charge of the Exchange's Control Room shall have the authority to turn off LOU with respect to a class of options if there is a system malfunction that affects the Exchange's ability to disseminate or update market quotes.*

*(c) Order Receipt.*

*(i) Orders Equal to or Smaller than the Exchange's Disseminated Quotation Size. When LOU receives an order smaller than the Exchange's disseminated quotation size, the system will automatically stop the order against the Exchange's disseminated market. The order will then be automatically routed for representation in the crowd to allow for price improvement and to allocate the order to members of the trading crowd pursuant to paragraph (d) below.*

*(ii) Orders Larger than the Exchange's Disseminated Quotation Size. When LOU receives an order larger than the Exchange's disseminated quotation size, the system will automatically stop a portion of the order against the Exchange's disseminated market up to the Exchange's disseminated size. The stopped portion of the order will then be automatically routed for representation in the crowd to allow for price improvement and to allocate the order to members of the trading crowd pursuant to paragraph (d) below. Simultaneously, the balance of the order that was not stopped at the Exchange's disseminated price will be routed for normal order handling.*

*(d) Execution and Allocation. Upon receipt, the LOU order (or the stopped portion of the LOU order) shall be announced and exposed to the crowd to allow for price improvement. Any portion of a LOU order that does not receive price improvement will be allocated as follows:*

*(i) The LOU order will be assigned in open outcry consistent with Rule 6.45 and Rule 8.87. To the extent an order is not fully assigned in open outcry, the remaining portion of the order will be assigned to Market-Makers via the In-Person Wheel. If a portion of the LOU order still remains after the In-Person Wheel allocations are exhausted, the balance of the order shall be assigned in accordance with the RAES trade allocation methodology in effect for the subject option class pursuant to Rule 6.8, Interpretation and Policy .06.*

*(e) Obligations of Participating Market-Makers. Any Market-Maker who is present in the trading crowd and who makes markets in a particular security traded in that crowd, must be logged onto the In-Person Wheel for that security.*

** * * Interpretations and Policies:*

*.01 The provisions of Rule 8.17 regarding stopping of option orders shall not apply to orders received pursuant to this Rule 6.10.*

* * * * *

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

*Introduction.* The Exchange is proposing to adopt a new Rule 6.10 governing the handling of larger customer orders. Under the new system, to be called the Large Order Utility (''LOU''), the Exchange will stop eligible customer orders at the Exchange's disseminated price up to the size of the disseminated quote, and subsequently allocate those customer orders in open-outcry, thereby allowing for price-improvement while guaranteeing an execution at a price equal to or better than the stop price. As proposed, the appropriate Floor Procedure Committee (''FPC'') would determine which option classes would be subject to the requirements of proposed Rule 6.10.

Large electronically routed public customer orders would generally be eligible for LOU. By immediately stopping these customer orders at the CBOE's disseminated market and transmitting a stop notification to the order sender, the Exchange believes that the LOU system would allow customers to quickly secure disseminated prices up to the CBOE's disseminated size (*i.e.,* to effectively trade against CBOE's dynamic quote) with the added benefit of potential price improvement via an open-outcry allocation.

*Eligibility for LOU.* To be eligible for LOU, an incoming electronic order would be required to meet the following criteria: (i) the order would be required to be a market order or marketable limit order that is not for an account in which a member or any non-member broker-dealer (including foreign broker-dealer) has an interest; (ii) the order would be required to be of a size greater than the RAES [3] eligibility limit for the subject option series as established pursuant to Rule 6.8(c); (iii) the order could not be a ''linkage order,'' *i.e.,* an order routed to the Exchange through the Options Intermarket Linkage pursuant to the Plan for the Purpose of Creating and Operating an Intermarket Options Linkage (''Linkage Plan'') [4]; and (iv) the order would be required to be in an options class designated by the appropriate FPC as subject to the terms of Rule 6.10.

[3] RAES is the Exchange's Retail Automatic Execution System.

[4] *See* Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000).

Additionally, an incoming electronic order would only be eligible for LOU if at the time of the order's receipt by the LOU system, the CBOE's disseminated market was equal to the national best bid or offer (''NBBO''). This would allow customers to receive the benefits of LOU (guaranteed prices and quick executions at CBOE's published market) when the CBOE's published price equals the NBBO. If CBOE's disseminated market was not the NBBO when an electronic customer order was received, the order would be handled under existing procedures. This would allow the trading crowd the opportunity to match the NBBO if it was so inclined. Further, once the intermarket linkage was in place, the Designated Primary Market Maker (''DPM'') would have the added ability to route an order to the exchange disseminating the NBBO if the trading crowd chooses not to match the NBBO.

Also, as previously noted, once the intermarket linkage is in place, linkage orders routed to CBOE from other exchanges would not be eligible for routing to LOU. The CBOE states that because of the unique features of the Linkage Plan, such orders must be handled in accordance with the requirements of the Linkage Plan (which allow for partial executions), and therefore would not be subject to the order handling requirements under proposed Rule 6.10.

There are two other eligibility requirements relating to the CBOE market at the time an eligible order is received that would need to be met for the order to be routed to LOU: (1) CBOE Rule 6.8.B must be in effect for the subject option class; and (2) CBOE's quote may not be a manual quote (*i.e.,* a quote submitted manually by a market-maker).

Rule 6.8.B essentially provides that, for classes in which the rule is in effect, public customer orders routed to CBOE through the Exchange's Order Routing System (''ORS'') will be automatically executed against orders resident in the Exchange's book when such booked orders equal the NBBO. Because Rule 6.8.B is in effect for option classes designated by the appropriate FPC (*i.e.,* it is not mandatory for all classes), and because customer orders in the book priced at the NBBO are accorded certain priorities over the trading crowd, the Exchange believes it is necessary to require that Rule 6.8.B be in effect for any option class in which proposed Rule 6.10 would be in effect.

With respect to manual quotes, LOU would not accept orders received while a manual quote is the Exchange's disseminated quote. This is to ensure that the DPM can make every possible effort to allow the incoming order to trade against the market maker responsible for the manual quote.

In sum, for an incoming order to be eligible for LOU, the order would be required to: (i) Be a market order or marketable limit order that is not for an account in which a member or any non-member broker-dealer (including foreign broker-dealer) has an interest; (ii) be of a size greater than the RAES eligibility limit for the subject option series as established pursuant to Rule 6.8(c); (iii) be in an option class which is designated by the appropriate FPC as eligible for LOU; and (iv) not be a linkage order. Further, at the time of the order's receipt, the state of the Exchange's disseminated market would need to meet the following: (i) the CBOE quote would be required to be priced equal to the NBBO; (ii) the requirements of CBOE Rule 6.8.B (governing automated book priority for larger than RAES-size public customer orders received through ORS) would have to be in effect for the subject option class; and (iii) the CBOE quote could not be a manual quote. LOU would accept orders when the above criteria are met.

*How LOU would handle and allocate orders.* Orders received by LOU would be automatically stopped at CBOE's disseminated price up to the disseminated size. The Exchange would transmit a stop notification to the order-sending firm. The stopped order would then be immediately routed to allow for price improvement and to allocate the order in open outcry. If the incoming order is larger than the CBOE's disseminated size, LOU would stop the portion of the order equal to the Exchange's disseminated size and handle that stopped portion as described above. The balance of the order would be routed for non-LOU order handling.

Once a stopped LOU order was routed to the trading crowd for assignment, it would be announced and exposed to the crowd to allow for price improvement. If price improvement was not attainable, the order would be allocated at the stop price in open outcry consistent with existing open outcry procedures under CBOE Rule 6.45. The DPM participation right would apply to the extent the order was stopped at the DPM's previously established market. If there still remains an unallocated portion of the order, such unallocated portion would be assigned to LOU's ''In-Person Wheel.''

The In-Person Wheel is an order allocation mechanism that would only be applicable to LOU orders. The mechanism would evenly assign contracts to logged-on market-makers (including DPM Designees) up to a 5-contract maximum per order. Under the proposed rule, any market-maker who is present in the trading crowd and who makes markets in a particular security traded in that crowd would be required to be logged onto the In-Person Wheel for that security. If the In-Person Wheel has been exhausted for a particular LOU order and a balance still remains on the LOU order, the entirety of such balance would be assigned in accordance with the RAES trade allocation methodology in effect for the subject option class (*i.e.*, 100-Spoke Wheel or Variable RAES) pursuant to CBOE Rule 6.8, Interpretation and Policy .06.

*Examples.* Below are some examples of how the LOU system would operate. Assume in all of the examples below that the CBOE disseminated market is the NBBO and that Rule 6.8.B is in effect. Also assume that there are 20 members in the trading crowd.

*Example 1.* CBOE quote: 5–5.20; 300 x 450. A customer order to buy 300 contracts at the market is received electronically. Here, LOU will stop the entire order at 5.20 (thus, the order cannot receive a price worse than 5.20) and route it for potential price improvement and for allocation. A market-maker has just determined that his risk parameters allow him to sell 50 contracts for 5.10. He trades 50 of the order at 5.10. The rest of the order is allocated in open outcry to the members of the trading crowd that were willing to sell for 5.20 (including the DPM) in accordance with applicable open outcry rules including the DPM participation entitlement.

*Example 2.* CBOE quote: 5–5.20; 300 x 450. A customer order to buy 300 contracts at the market is received electronically. The order is stopped and routed as in Example 1. No price improvement is received this time, and only 220 contracts of the 300-contract order are allocated in open outcry. The remaining portion, 80 contracts, will be allocated to the In-Person Wheel. In this case, each of the 20 crowd members would receive 4 contracts via the In-Person Wheel.

*Example 3.* Assume the same scenario as in Example 2, except that 225 contracts are allocated in open outcry. Here, the In-Person Wheel will provide that 15 crowd members receive 4 contracts, and the other five members receive 3 contracts.

*Example 4.* Assume the same scenario as in Example 2, except that 150 contracts are allocated in open outcry. In this case, the In-Person Wheel would assign 5 contracts to each of the 20 crowd members (for a total of 100 contracts). Thus, the In-Person Wheel is exhausted while a portion of the order (50 contracts) remains unexecuted. The remaining 50 contracts are therefore assigned via the RAES allocation methodology in effect for that trading crowd (either the 100-Spoke Wheel or Variable RAES, both of which are governed by Rule 6.8, Interpretation and Policy .06).

*Example 5.* CBOE quote: 5–5.20; 300 x 500. The offer represents a customer limit order in

the book to sell 50 contracts and the CBOE trading crowd's market of 450 contracts. A customer order to buy 300 contracts at the market is received electronically. Here, the order will automatically execute against the order in the book for 50 contracts pursuant to Rule 6.8.B before LOU stops the remaining 250 contracts on the buy order at 5.20 and then routes those contracts to the crowd for potential price improvement and allocation.

*Example 6.* CBOE quote: 5–5.20; 300 x 200. A customer order to buy 300 contracts at the market is received electronically. Here, LOU will stop a 200-contract portion of the order at 5.20 (and send a stop notification for 200 contracts). The remaining 100 contracts of the order (the unstopped portion) will be routed for normal handling and representation. It will not be guaranteed a fill at the disseminated price at the time of receipt because that price was exhausted.

Lastly, the Exchange notes that the provisions of Rule 8.17 relating to the manual stopping of options order on the Exchange shall not apply to orders received and handled pursuant to proposed Rule 6.10. Rule 8.17 is applicable to manual stops and its terms would not make sense for electronically stopped orders.

2. Statutory Basis

The Exchange believes the proposed rule change will help customer orders receive fast and secure executions at disseminated prices and is therefore consistent with section 6(b) of the Act [5] in general and furthers the objectives of Section 6(b)(5) [6] in particular in that it should promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal offices of the CBOE. All submissions should refer to File No. SR–CBOE–2002–31 and should be submitted by July 10, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02–15428 Filed 6–18–02; 8:45 am]

**BILLING CODE 8010–01–P**

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 17 CFR 200.30–3(a)(12).

## SOCIAL SECURITY ADMINISTRATION

### Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with P.L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collection packages that may be included in this notice are for new information collections, revisions to OMB-approved information collections and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer at the following addresses: (OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10235, 725 17th St., NW., Washington, DC 20503; (SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

*New Information Collection:*

**Pay.Gov Pilot—Phase–2 Testing—0960–New**

*Background*

The Government Paperwork Elimination Act of 1998 directed federal agencies to develop electronic service delivery instruments as an alternative to traditional paper-based methods. SSA plans to expand its Internet services to enable citizens to complete the application process as well as to process their requests for post-entitlement transactions online. A major requirement for filing applications and for processing transactional requests is SSA's ability to adequately authenticate the citizen. SSA cannot disclose information unless it is under the provisions of the Freedom of Information Act and the Privacy Act of 1974. Because these transactions will be taking place online, SSA must authenticate citizens by asking for information that would positively identify the requester of the information as the proper party. This information will be validated against identifying information residing in databases

outside of SSA. Resultantly, SSA is planning to conduct a series of tests of the Treasury Department's ''Pay.Gov'' authentication engine as a possible tool for out-of-band authentication.

*The Collection Pay.Gov—Phase–2*

SSA plans to conduct a limited pilot using its online Direct Deposit application to test the Treasury Department's Pay.Gov authentication engine as a possible tool for the Agency to validate beneficiaries online that do not have a current Pin/Password. The respondents to this test will be SSA Title II recipients who need to be authenticated before access can the granted to SSA's Direct Deposit online service.

*Number of Respondents:* 161.

*Frequency of Response:* 1.

*Average Burden Per Response:* 5 minutes.

*Estimated Annual Burden:* 13 hours.

*Revision of an OMB-approved Information Collection:*

**Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Adult, Form SSA–3988–TEST; Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Child, Form SSA–3989–TEST—0960–0643**

*Background*

The Social Security Act mandates periodic redeterminations of the non-medical factors that relate to the SSI recipients' continuing eligibility for SSI payments. Recent SSA studies have indicated that as many as ⅔ of all scheduled redeterminations completed, with the assistance of a SSA employee, did not result in any change in circumstances that affected payment. Therefore, SSA is planing to expand the respondents and revise the test methodology of the currently approved test forms. The expansion of the test is needed to further validate whether the test redetermination process actually results in significant operational savings and a decrease in recipient inconvenience, while still timely obtaining the accurate data needed to determine continuing eligibility through the process.

*The Collection*

A limited test of forms SSA–3988–TEST and SSA–3989–TEST will be used to determine whether SSI recipients have met and continue to meet all statutory and regulatory non-medical requirements for SSI eligibility, and whether they have been and are still receiving the correct payment amount. The SSA–3988–TEST and SSA–3989–TEST are designed as self-help forms that will be mailed to recipients or to their representative payees for completion and return to SSA. The objectives of the expanded test are to determine the public's ability to understand and accurately complete the test forms. The respondents are recipients of SSI benefits or their representatives.

| | Respondents | Frequency of response | Average burden per response (minutes) | Estimate annual burden |
|---|---|---|---|---|
| SSA–3988–TEST | 46,500 | 1 | 20 | 15,500 |
| SSA–3989–TEST | 8,500 | 1 | 20 | 2,833 |
| Total Annual Burden | | | | 18,333 |

II. The information collection listed below has been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer on (410) 965–0454, or by writing to the address listed above.

*New Information Collection:*

**Social Security Number Verification Service (SSNVS)—0960-New**

*Background*

Under Internal Revenue Service regulations, employers are obligated to provide wage and tax data to SSA using form W–2, Wage and Tax Statement or its electronic equivalent. As part of this process, the employer must furnish the employee's name and their Social Security Number (SSN). This information must match SSA's records in order for the employee's wage and tax data to be properly posted to their Earnings Record. Information that is incorrectly provided to the Agency must be corrected by the employer using an amended reporting form, which is a labor-intensive and time-consuming process for both SSA and the employer. Therefore, to help ensure that employers provide accurate name and SSN information, SSA plans to offer a free and secure Internet service for employers, SSNVS, that will allow them to perform advance verification of their employees' name and SSN information against SSA records.

*SSNVS Collection*

SSA will use the information collected through the SSNVS to verify that employee name and SSN information, provided by employers, matches SSA records. SSA will respond to the employer informing them only of matches and mismatches of submitted information. SSA plans to conduct a pilot with a limited number of test employers followed by national implementation. Respondents are employers who provide wage and tax data to SSA and have elected to participate in the pilot and the future national service.

Pilot Burden Hours Estimate

*Number of Respondents:* 100.

*Frequency of Response:* 10.

*Average Burden Per Response:* 5 minutes.

*Estimated Annual Burden:* 83 hours.

National Implementation Burden Hours Estimate

*Number of Respondents:* 1,000,000.

*Frequency of Response:* 10.

*Average Burden Per Response:* 5 minutes.

*Estimated Annual Burden:* 833,333 hours.

**Please note:** SSA estimates that each respondent will access the SSNVS an average of 10 times annually.

Revisions to OMB-approved Information Collections:

1. Statement for Determining Continuing Eligibility, Supplemental Security Income Payment—0960–0145—Forms SSA–8202–F6 and SSA–8202–OCR–SM

SSA uses form SSA–8202–F6 to conduct low- and middle-error-profile (LEP–MEP) telephone or face-to-face redetermination (RZ) interviews with Supplemental Security Income (SSI) recipients and representative payees. The information collected during the interview is used to determine whether SSI recipients have met and continue to meet all statutory and regulatory requirements for SSI eligibility and whether they have been, and are still receiving, the correct payment amount.

Form SSA–8202–OCR–SM (Optical Character Recognition-Self Mailer) collects information similar to that collected on Form SSA–8202–F6. However it is used exclusively in LEP RZ cases on a 6-year cycle. The respondents are recipients of SSI benefits or their representative payees.

| | Respondents | Frequency of response | Average burden per response (minutes) | Estimated annual burden (hours) |
|---|---|---|---|---|
| SSA–8202–F6 | 920,000 | 1 | 18 | 276,000. |
| SSA–8202–OCR–SM | 800,000 | 1 | 9 | 120,000. |
| Total Burden | | | | 396,000. |

Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—0960–0416

SSA uses the information collected on form SSA–8203–BK for high-error-profile (HEP) redeterminations of disability to determine whether SSI recipients have met and continue to meet all statutory and regulatory requirements for SSI eligibility and whether they have been, and are still receiving, the correct payment amount. The information is normally completed in field offices by personal contact (face-to-face or telephone interview) using the automated Modernized SSI Claim System (MSSICS). The respondents are recipients of title XVI SSI benefits.

*Number of Respondents:* 920,000.

*Frequency of Response:* 1.

*Average Burden Per Response:* 18 minutes.

*Estimated Annual Burden:* 276,000 hours.

Dated: June 12, 2002.

**Elizabeth A. Davidson,**

*Reports Clearance Officer, Social Security Administration.*

[FR Doc. 02–15397 Filed 6–18–02; 8:45 am]

**BILLING CODE 4191–02–P**

## DEPARTMENT OF STATE

**[Public Notice 3984]**

### Advisory Committee on Historical Diplomatic Documentation; Notice of Meeting

The Advisory Committee on Historical Diplomatic Documentation will meet in the Department of State, 2201 ''C'' Street NW, Washington, DC, July 22–23, 2002, in Conference Room 1205. Prior notification and a valid photo are mandatory for entrance into the building. One week before the meeting, members of the public planning to attend must notify Gloria Walker, Office of the Historian (202–663–1124) to provide relevant dates of birth, Social Security numbers, and telephone numbers.

The Committee will meet in open session from 1:30 p.m. through 3:00 p.m. on Monday, July 22, 2002, to discuss declassification and transfer of Department of State electronic records to the National Archives and Records Administration and the status of the *Foreign Relations* series. The remainder of the Committee's sessions from 3:15 p.m. until 4:30 p.m. on Monday, July 22, 2002, and 9:00 a.m. until 1:00 p.m. on Tuesday, July 23, 2002, will be closed in accordance with section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463). The agenda calls for discussions of agency declassification decisions concerning the *Foreign Relations* series. These are matters not subject to public disclosure under 5 U.S.C. 552b(c)(1) and the public interest requires that such activities be withheld from disclosure.

Questions concerning the meeting should be directed to Marc J. Susser, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC, 20520, telephone (202) 663–1123, (e-mail *history@state.gov*).

Dated: May 23, 2002.

**Marc J. Susser,**

*Executive Secretary of the Advisory Committee on Historical Diplomatic Documentation, Department of State.*

[FR Doc. 02–15469 Filed 6–18–02; 8:45 am]

**BILLING CODE 4710–11–P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[Docket No. WTO/DS–244]**

### WTO Dispute Settlement Proceeding Brought by Japan Regarding the Sunset Review of Antidumping Duties on Corrosion-Resistant Carbon Steel Flat Products From Japan

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative (USTR) is providing notice of the request by the Government of Japan for the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization (WTO) to examine certain aspects of the final determinations of both the United States Department of Commerce (DOC) and the United States International Trade Commission (ITC) in the full sunset review of antidumping duties on corrosion-resistant carbon steel flat products from Japan, issued on August 2, 2000, and November 21, 2000, respectively. USTR is also providing notice that a dispute settlement panel to examine the same matter has been established. USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before July 12, 2002, to be assured of timely consideration by USTR.

**ADDRESSES:** Comments should be submitted (i) electronically, to japancrsteel@ustr.gov, or (ii) by mail, to Sandy McKinzy, Attn: Japan Corrosion-Resistant Steel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, with a confirmation copy sent electronically or by fax to (202) 395–3640.

**FOR FURTHER INFORMATION CONTACT:** Katharine J. Mueller, Assistant General Counsel, (202) 395–0317.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), USTR is providing notice that on April 4, 2002, the Government of Japan submitted a request for the establishment of a dispute settlement panel to examine certain aspects of the final determinations of DOC and ITC in the full sunset review of antidumping duties on corrosion-resistant carbon steel flat products from Japan, and that, on May 22, 2002, a WTO dispute settlement panel was established at the request of the Government of Japan to examine the same matter.

**Major Issues Raised and Legal Basis of the Complaint**

Japan alleges that the DOC and ITC final determinations in the full sunset review of antidumping duties on corrosion-resistant carbon steel flat products from Japan, issued on August 2, 2000, and November 21, 2000, respectively, are erroneous and based on WTO-inconsistent provisions of the Tariff Act of 1930 and related regulations. Japan points in particular to:

- The automatic initiation of the sunset review without sufficient evidence;
- The likelihood standard used in determining whether to revoke or terminate an order, including the ''good cause'' provision determining whether the DOC may consider other relevant factors;
- The use of original (pre-WTO) dumping margins to determine the likelihood of continuation or recurrence of dumping and injury;
- The determination of the likelihood of continued or recurrent dumping on an order-wide basis rather than a company-specific basis;
- The treatment as ''zero'' of negative dumping amounts in the margins of dumping likely to prevail in the event of revocation;
- The decision of DOC not to accept certain information submitted by a Japanese respondent;
- The application of a *de minimis* standard of 0.5 percent in sunset reviews;
- The determination of ITC to cumulate imports without considering wither imports were negligible.

Japan contends that these aspects of the final determinations are inconsistent with Articles VI and X of the General Agreement on Tariffs and Trade 1994; Articles 2, 3, 5, 6, 11, 12, and 18 of the Antidumping Agreement; and Article XVI:4 of the Marrakesh Agreement Establishing the World Trade Organization.

**Public Comment: Requirements for Submissions**

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English. Commenters should send either one copy by U.S. mail, first class, postage prepaid, to Sandy McKinzy at the address listed above, or transmit a copy electronically to *japancrsteel@ustr.gov.* For documents sent by U.S. mail, USTR requests that the submitter provide a confirmation copy, either electronically or by fax to (202) 395–3640. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy. For any document containing business confidential information submitted by electronic transmission, the file name of the business confidential version should begin with the characters ''BC'', and the file name of the public version should begin with the characters ''P''. The ''P'' or ''BC'' should be followed by the name of the commenter. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy, or appropriately name the electronic file submitted containing such material; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body.

An appointment to review the public file (Docket WTO/DS–244, Japan Corrosion-Resistant Steel Dispute) may be made by calling the USTR Reading Room at (202) 395–6186. The USTR Reading Room is open to the public at 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

**Bruce R. Hirsch,**

*Acting Assistant United States Trade Representative for Monitoring and Enforcement.*

[FR Doc. 02–15359 Filed 6–18–02; 8:45 am]

BILLING CODE 3190–01–M

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

### Environmental Impact Statement for the Los Angeles Union Station Run-Through Track Project

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of intent to prepare an Environmental Impact Statement

**SUMMARY:** The Federal Railroad Administration (FRA), in accordance with the National Environmental Policy Act (NEPA) of 1969, intends to prepare an Environmental Impact Statement (EIS) to assess potential environmental impacts of the proposed Los Angeles Union Station Run-Through Track Project. The EIS is being prepared with the California Department of Transportation (Department) in conjunction with an Environmental Impact Report (EIR) that will address the requirements of the California Environmental Quality Act.

This EIS will address the potential environmental impacts of a reasonable range of alternative alignments for the proposed project and will provide a meaningful opportunity for the public to comment on this project. This notice informs the public of the proposed project, announces the dates, times, and places for scoping meetings, and solicits public comment. The scoping process will include notifying the general public and Federal, State, and local agencies of the proposed project. The purpose of scoping is to identify public and agency concerns, and alternatives to be considered in the EIS and EIR.

**DATES:** *Written Comments:* Written comments on the scope of the EIS for the proposed project will be accepted and should be received no later than July 29, 2002. Comments received after this date will be considered to the

extent practicable. Comments may be addressed to Mr. David Valenstein at the address noted below.

*Scoping Meetings:* Two scoping meetings will be held. An open house format meeting for the public will be held from 5:00 to 7:30 PM on Monday, June 24, 2002, at the headquarters of the Los Angeles Metropolitan Transportation Authority, One Gateway Center, Los Angeles, CA 90012, in the Union Station Conference Room. A meeting intended primarily for environmental and regulatory agencies will be held at 9:00 AM on Tuesday, June 25, 2002, in the offices of Myra Frank & Associates, 811 West 7th Street, Suite 800, Los Angeles, CA 90017.

**FOR FURTHER INFORMATION CONTACT:** For information about the project or the EIR please contact: Mr. Gary Iverson, California Department of Transportation, District 7, Division of Environmental Planning, 120 South Spring Street, Los Angeles, California 90012. Phone: 213–897–3818. For general information on the FRA environmental process, or for questions and comments on the scope of the EIS, please contact: David Valenstein, Environmental Program Manager, 1120 Vermont Avenue, NW, MS 20, Washington, DC 20590. Phone: 202–493–6368.

**SUPPLEMENTARY INFORMATION:** The FRA, in accordance with Section 102(2) of the NEPA of 1969, 42 U.S.C. 4321 *et seq.*, intends to prepare an EIS to assess potential environmental impacts of the proposed Los Angeles Union Station Run-Through Track Project. The EIS is being prepared with the Department in conjunction with an EIR that will address the requirements of the California Environmental Quality Act. To ensure that a full range of related issues and alternatives for this project are addressed, FRA invites comments on the scope of the proposed EIS.

Los Angeles Union Station (LAUS), also known as Los Angeles Union Passenger Terminal, is located at 800 N. Alameda Street, Los Angeles, California 90012, in the northeast section of downtown Los Angeles. LAUS serves intercity Amtrak service, commuter Metrolink, subway Metrorail, and several local transit bus lines including MTA and downtown DASH shuttles. Union Station is not located directly on main line tracks, but rather is accessed via a set of spur tracks. The current operation of the station requires trains to pull into the terminal and then reverse their direction of travel after unloading or loading passengers. Since both entering and exiting trains must pass through the same set of tracks to connect to the main line, they are subject to delays either at the station platforms or on the connecting tracks while awaiting a slot at the platforms.

The Department proposes a project that would extend two tracks south of their current terminus on an aerial structure, over US 101, through a commercial/industrial area between US 101 and First Street, and connect to main line tracks on the west side of the Los Angeles River. This would allow some of the trains that use the station to avoid the pull in/back out situation. Overall, the Run-Through Project structure would form an S-curve, connecting at its north/west end to track platforms at Union Station and at its south/east end to some point along the Burlington Northern Santa Fe Railroad (BNSF) main line in the vicinity of the 1st Street Bridge, over a distance of about one mile. The aerial structure is needed to avoid impacts to local streets. Construction of the elevated track structure would involve placing the support structures for the elevated rail tracks above existing streets and/or parcels. Acquisitions of public and/or private parcels would be required, based on the selected alignment. The particular alignment and touchdown point on the main line are the focus of key decisions to be made in this study.

The EIS will be prepared following the requirements of the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR part 1500 *et seq.*) and FRA's Environmental Procedures (64 FR 28545, May 26, 1999). The EIS will analyze the construction and operational effects of selected alternative alignments for the proposed project. The EIS will examine the potential impact to a number of resource areas, including but not limited to the following: aesthetics, air quality, cultural resources, geology/soils, hazardous materials, land use, noise, socioeconomic, and Section 4(f) resources. The EIS process will include full public participation, disclosure, and coordination, and will encourage involvement from appropriate Federal, State and local agencies. The Draft EIS process will include public information/scoping meetings, public review of the Draft EIS and a public hearing on the Draft EIS.

Issued in Washington, DC., on June 12, 2002.

**Mark E. Yachmetz,**

*Associate Administrator for Railroad Development.*

[FR Doc. 02–15381 Filed 6–18–02; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

June 11, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

**DATES:** Written comments should be received on or before July 19, 2002, to be assured of consideration.

**Internal Revenue Service (IRS)**

*OMB Number:* 1545–0256.

*Form Number:* IRS Forms 941c and 941cPR.

*Type of Review:* Extension.

*Title:* Supporting Statement to Correct Information (941c); and Planilla Para La Correccion de Informacion (941cPR).

*Description:* These forms are used by employers to correct previously reported FICA or income tax data. It may be used to support a credit or adjustment claimed on a current return for an error in a prior return period. The information is used to reconcile wages and taxes previously reported or used to support a claim for refund, credit, or adjustment of FICA or income tax.

*Respondents:* Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

*Estimated Number of Respondents/Recordkeepers:* 958,050.

*Estimated Burden Hours Per Respondent/Recordkeeper:*

| Form | Hours per respondent |
|---|---|
| 941c | 9 hrs., 12 min. |
| 941cPR | 7 hrs., 44 min. |

*Frequency of Response:* On occasion.

*Estimated Total Reporting/Recordkeeping Burden:* 8,729,307 hours.

Clearance Officer: Glenn Kirkland, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, Office of Management and Budget, Room 10202,

New Executive Office Building, Washington, DC 20503. (202) 395–7860.

**Mary A. Able,**

*Departmental Reports, Management Officer.*

[FR Doc. 02–15385 Filed 6–18–02; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

### June 13, 2002.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

**DATES:** Written comments should be received on or before July 19, 2002, to be assured of consideration.

**Internal Revenue Service (IRS)**

*OMB Number:* 1545–0110.

*Form Number:* IRS Form 1099–DIV.

*Type of Review:* Extension.

*Title:* Dividends and Distributions.

*Description:* The form is used by the Service to insure that dividends are properly reports as required by Code section 6042 and that liquidation distributions are correctly reported as required by Code section 6043, and to determine whether payees are correctly reporting their income.

*Respondents:* Business or other for-profit.

*Estimated Number of Respondents:* 140,560.

*Estimated Burden Hours Per Respondent:* 16 minutes.

*Frequency of Response:* Annually.

*Estimated Total Reporting Burden:* 34,463,513 hours.

*OMB Number:* 1545–0173.

*Form Number:* IRS Form 4563.

*Type of Review:* Extension.

*Title:* Exclusion of Income for Bona Fide Residents of American Samoa.

*Description:* Form 4563 is used by bona fide residents of American Samoa whose income is from sources within American Samoa, Guam, and the Northern Mariana Islands to the extent specified in Internal Revenue Code (IRC) section 931. This information is used by the IRS to determine if an individual is eligible to exclude possession source income.

*Respondents:* Individual or households.

*Estimated Number of Respondents/Recordkeepers:* 100.

*Estimated Burden Hours Per Respondent/Recordkeeper:*

Recordkeeping—33 min.

Learning about the law or the form—7 min.

Preparing the form—25 min.

Copying, assembling, and sending the form to the IRS—17 min.

*Frequency of Response:* Annually.

*Estimated Total Reporting/Recordkeeping Burden:* 174 hours.

*OMB Number:* 1545–0227.

*Form Number:* IRS Form 6251.

*Type of Review:* Revision.

*Title:* Alternative Minimum Tax—Individuals.

*Description:* Form 6251 is used by individuals with adjustments, tax preference items, taxable income above certain exemption amounts, or certain credits. Form 6251 computes the alternative minimum tax which is added to regular tax. The information is needed to ensure the taxpayer is complying with the law.

*Respondents:* Individual or households.

*Estimated Number of Respondents/Recordkeepers:* 4,213,000.

*Estimated Burden Hours Per Respondent/Recordkeeper:*

Recordkeeping—19 min.

Learning about the law or the form—1 hr., 11 min.

Preparing the form—1 hr., 39 min.

Copying, assembling, and sending the form to the IRS—34 min.

*Frequency of Response:* Annually.

*Estimated Total Reporting/Recordkeeping Burden:* 15,840,880 hours.

*OMB Number:* 1545–0284.

*Form Number:* IRS Form 5309.

*Type of Review:* Extension.

*Title:* Application for Determination of Employee Stock Ownership Plan.

*Description:* Form 5309 is used in conjunction with Form 5300 or Form 5303 when applying for a determination letter as to a deferred compensation plan's qualification status under section 409 or 4975(e)(7) of the Internal Revenue Code. The information is used to determine whether the plan qualifies.

*Respondents:* Business or other for-profit.

*Estimated Number of Respondents/Recordkeepers:* 462.

*Estimated Burden Hours Per Respondent/Recordkeeper:*

Recordkeeping—6 hr., 13 min.

Learning about the law or the form—2 hr., 17 min.

Preparing and sending the form to the IRS—2 hr., 28 min.

*Frequency of Response:* On occasion.

*Estimated Total Reporting/Recordkeeping Burden:* 5,078 hours.

*OMB Number:* 1545–1110.

*Form Number:* IRS Form 940–EZ.

*Type of Review:* Extension.

*Title:* Employer's Annual Federal Unemployment (FUTA) Tax Return.

*Description:* Form 940–EZ is a simplified form that most employers with uncomplicated tax situations (e.g., only paying unemployment contributions to one state and paying them on time) can use to pay their FUTA tax. Most small businesses and household employers use the form.

*Respondents:* Business or other for-profit, Individuals or households, Farms.

*Estimated Number of Respondents/Recordkeepers:* 4,089,000.

*Estimated Burden Hours Per Respondent/Recordkeeper:*

Recordkeeping—7 hr., 8 min.

Learning about the law or the form—1 hr., 5 min.

Preparing and sending the form to the IRS—1 hr., 5 min.

*Frequency of Response:* Annually.

*Estimated Total Reporting/Recordkeeping Burden:* 36,162,483 hours.

*OMB Number:* 1545–1486.

*Regulation Project Number:* REG–209793–95 Final.

*Type of Review:* Extension.

*Title:* Simplification of Entity Classification Rules.

*Description:* These rules allow certain unincorporated business organizations to elect to be treated as corporations or partnerships for federal tax purposes. The information collected on the election will be used to verify the classification of electing organizations.

*Respondents:* Business or other for-profit.

*Estimated Number of Respondents:* 1.

*Estimated Burden Hours Per Respondent:* 1 hour.

*Frequency of Response:* Annually.

*Estimated Total Reporting Burden:* 1 hour.

*OMB Number:* 1545–1654.

*Regulation Project Number:* REG–106527–98 Final.

*Type of Review:* Extension.

*Title:* Capital Gains, Partnership and Subchapter S, and Trust Provisions.

*Description:* Section 1(h) requires that transferors recognize collectibles gain when an interest in an S corporation, trust, or a partnership holding property with collectibles gain is sold or exchanged and that partners take section 1250 capital gain in the

partnership property into account when an interest in the partnership is sold or exchanged. These regulations provide guidance.

*Respondents:* Business or other for-profit, Individuals or households.

*Estimated Number of Respondents:* 1.

*Estimated Burden Hours Per Respondent:* 1 hour.

*Frequency of Response:* Annually.

*Estimated Total Reporting Burden:* 1 hour.

*OMB Number:* 1545–1655.

*Regulation Project Number:* REG–121946–98 Final.

*Type of Review:* Extension.

*Title:* Private Foundation Disclosure Rules.

*Description:* The collections of information in sections 301.6104(d)–1, 301.6104(d)–2 and 301.6104(d)–3 are necessary so that private foundations can make copies of their applications for tax-exemption and annual information returns available to the public.

*Respondents:* Not-for-profit institutions.

*Estimated Number of Respondents/Recordkeepers:* 65,065.

*Estimated Burden Hours Per Respondent/Recordkeeper:* 30 minutes.

*Frequency of Response:* On occasion.

*Estimated Total Reporting/Recordkeeping Burden:* 32,596 hours.

Clearance Officer: Glenn Kirkland, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Joseph F. Lackey, Jr., Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503. (202) 395–7316.

**Lois K. Holland,**

*Departmental Reports Management Officer.*

[FR Doc. 02–15468 Filed 6–18–02; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

### Proposed Collection; Comment Request

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application and Permit to Ship Puerto Rican Spirits to the United States Without Payment of Tax.

**DATES:** Written comments should be received on or before August 19, 2002, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Mary A. Wood, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8185.

**SUPPLEMENTARY INFORMATION:**

*Title:* Application and Permit to Ship Puerto Rican Spirits to the United States Without Payment of Tax.

*OMB Number:* 1512–0200.

*Form Number:* ATF F 5110.31.

*Abstract:* ATF F 5110.31 is used to allow a person to ship spirits in bulk into the U.S. The form identifies the person in Puerto Rico from where shipments are to be made, the person in the U.S. receiving the spirits, amounts of spirits to be shipped and the bond of the U.S. person to cover taxes on such spirits.

*Current Actions:* There are no changes to this information collection and it is being submitted for extension purposes only.

*Type of Review:* Extension.

*Affected Public:* Business or other for-profit.

*Estimated Number of Respondents:* 20.

*Estimated Total Annual Burden Hours:* 450.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 12, 2002.

**William T. Earle,**

*Associate Director (Management), CFO.*

[FR Doc. 02–15369 Filed 6–18–02; 8:45 am]

**BILLING CODE 4810–31–P**

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

### Proposed Collection; Comment Request

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Records and Supporting Data: Daily Summaries, Records of Production, Storage, and Disposition, and Supporting Data by Licensed Explosives Manufacturers and Manufacturers (Limited).

**DATES:** Written comments should be received on or before August 19, 2002, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Gail Davis, Chief, Public Safety Branch, 800 K Street, NW., Suite 710, Washington, DC 20001, (202) 927–7930.

**SUPPLEMENTARY INFORMATION:**

*Title:* Records and Supporting Data: Daily Summaries, Records of Production, Storage, and Disposition, and Supporting Data By Licensed Explosives Manufacturers and Manufacturers (Limited).

*OMB Number:* 1512–0372.

*Recordkeeping Requirement ID Number:* ATF REC 5400/2.

*Abstract:* These records show daily activities in the manufacture, use, storage, and disposition of explosive materials by manufacturers and manufacturers (limited) covered under 18 U.S.C. Chapter 40. The records are used to show where and to whom explosive materials are sent, thereby ensuring that any diversion will be readily apparent and, if lost or stolen, ATF will be immediately notified on discovery of the loss or theft. ATF requires that records be kept 5 years from date of transaction.

*Current Actions:* There are no changes to this information collection and it is being submitted for extension purposes only.

*Type of Review:* Extension.

*Affected Public:* Business or other for-profit

*Estimated Number of Respondents:* 1,053.

*Estimated Total Annual Burden Hours:* 68,835.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 12, 2002.

**William T. Earle,**

*Assistant Director (Management), CFO.*

[FR Doc. 02–15370 Filed 6–18–02; 8:45 am]

**BILLING CODE 4810–31–P**

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

### Proposed Collection; Comment Request

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Identification Markings Placed on Firearms, 27 CFR 178.92 and 179.102.

**DATES:** Written comments should be received on or before August 19, 2002, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Gail Davis, Chief, Public Safety Branch, 800 K Street NW., Suite 710, Washington, DC 20001, (202) 927–7930.

**SUPPLEMENTARY INFORMATION:**

*Title:* Identification Markings Placed on Firearms, 27 CFR 178.92 and 179.102.

*OMB Number:* 1512–0550.

*Abstract:* Section 923(i) of the Gun Control Act of 1968 requires licensed manufacturers and importers to legibly identify firearms by engraving or stamping certain information such as serial numbers on firearms. To reduce the problem of incorrect record entries by licensees and to make identification markings less susceptible to being readily obliterated, altered, or removed, ATF proposes to amend the regulations to prescribe minimum height and depth requirements for identification markings placed on firearms.

*Current Actions:* There are no changes to this information collection and it is being submitted for extension purposes only.

*Type of Review:* Extension.

*Affected Public:* Business or other for profit.

*Estimated Number of Respondents:* 2,506.

*Estimated Total Annual Burden Hours:* 5,665.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 12, 2002.

**William T. Earle,**

*Assistant Director (Management), CFO.*

[FR Doc. 02–15371 Filed 6–18–02; 8:45 am]

**BILLING CODE 4810–31–P**

# Corrections

**Federal Register**

Vol. 67, No. 118

Wednesday, June 19, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### 7 CFR Part 301

**[Docket No. 01-093-1]**

### Mediterranean Fruit Fly; Addition to Quarantined Areas

*Correction*

Federal Register document 01–26329 was inadvertently published in the Proposed Rules section in the issue of Friday, October 19, 2001 beginning on page 53123. It should have appeared in the Rules and Regulations section.

[FR Doc. C1–26329 Filed 6–18–02; 8:45 am]

**BILLING CODE 1505–01–D**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7228–9]**

### Standards for the Use or Disposal of Sewage Sludge

*Correction*

In notice document 02–14761 beginning on page 40554 in the issue of Wednesday, June 12, 2002 make the following corrections:

1. On page 40559, in the second column, heading numbered roman numeral ''VIII'' should read capital letter ''I ''.

2. On page 40566, the table should read as follows:

TABLE 5.—RISKS AND DAILY EXPOSURE FOR HIGHLY EXPOSED FARM ADULT AND CHILD FOR ALL EXPOSURE PATHWAYS—($Q^*=1.56 \times 10^{-4}$/PG TEQ/kg-d)

| Percentile | Adult* | | Child** | |
|---|---|---|---|---|
| | Risk | Daily Exposure pg TEQ/kg-d | Risk | Daily Exposure, pg TEQ/kg-d |
| 50th | $1 \times 10^{-6}$ | 0.006 | $1 \times 10^{-6}$ | 0.006 |
| 75th | $4 \times 10^{-6}$ | 0.02 | $3 \times 10^{-6}$ | 0.02 |
| 90th | $1 \times 10^{-5}$ | 0.06 | $7 \times 10^{-6}$ | 0.04 |
| 95th | $2 \times 10^{-5}$ | 0.1 | $1 \times 10^{-5}$ | 0.06 |
| 99th | $4 \times 10^{-5}$ | 0.3 | $2 \times 10^{-5}$ | 0.2 |

* Initial exposure begins when the individual is an adult.
** Initial exposure begins when the individual is a child.

[FR Doc. C2–14761 Filed 6–18–02; 8:45 am]

**BILLING CODE 1505–01–D**


Federal Register

**Wednesday,**
**June 19, 2002**

## Part II

# Department of the Interior

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 875**

**Abandoned Mine Land Reclamation Notices; Proposed Rule**

**DEPARTMENT OF THE INTERIOR**

**Office of Surface Mining Reclamation and Enforcement**

**30 CFR Part 875**

**RIN: 1029–AB99**

## Abandoned Mine Land Reclamation Notices

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** Currently regulations require us to publish a **Federal Register** notice whenever we receive a State or tribal application to build public facilities using Abandoned Mine Land Reclamation Funds. We propose to change this requirement so that we would publish a notice only when the Director of the Office of Surface Mining (OSM) finds it necessary. We also propose to correct errors in four cross-references.

**DATES:** *Written comments:* We will accept written comments on the proposed rule until 5 p.m., Eastern Time, on August 19, 2002.

*Public hearings:* Upon request, we will hold a public hearing on the proposed rule at a date, time and location to be announced in the **Federal Register** before the hearing. We will accept requests for a public hearing until 5 p.m., Eastern Time, on July 10, 2002.

**ADDRESSES:** If you wish to comment, you may submit your comments on this proposed rule by one of two methods. You may mail or hand carry comments to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 101, 1951 Constitution Avenue, NW., Washington, DC 20240.

You may submit a request for a public hearing orally or in writing to the person and address specified under **FOR FURTHER INFORMATION CONTACT.** The address, date and time for any public hearing held will be announced before the hearing. Any disabled individual who requires special accommodation to attend a public hearing should also contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

**FOR FURTHER INFORMATION CONTACT:** Danny Lytton, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., MS–121–SIB, Washington DC 20240; Telephone: 202–208–2788.

**SUPPLEMENTARY INFORMATION:**



### I. Discussion of the Proposed Rule

We are revising our regulations at 30 CFR 875.15(f) which govern public notification for certain non-coal reclamation projects funded by the AML Reclamation Fund under 30 CFR part 875. There are 23 States and 3 Indian tribes with approved AML programs. Only 6 of these programs are currently certified for non-coal reclamation projects, i.e., all of their existing known coal-related reclamation objectives have been completed. They are the programs of the States of Louisiana, Montana, Texas and Wyoming, and the Hopi Tribe and Navajo Nation. Only these 6 programs are, therefore, eligible for 30 CFR part 875 AML funding of non-coal reclamation projects.

The current regulations at 30 CFR 875.15(f) require that the Director publish a **Federal Register** notice announcing the receipt of, and seeking comments on, AML grant applications for non-coal reclamation projects submitted by a governor of a State or the equivalent head of an Indian tribe. The grant applications are requests for funds for the construction of specific public facilities related to the coal or minerals industry in communities impacted by coal or other mineral mining and processing practices. Such construction projects are authorized by section 411(f) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) after all coal-related reclamation objectives have been or are in the process of being completed. For the reasons set forth below, we are proposing to make the Director's **Federal Register** notice requirement a discretionary action.

The current regulatory scheme for 30 CFR part 875 provides for a level of public notice that, in most cases, makes the additional **Federal Register** notice of § 875.15(f) redundant. For example, § 875.13 provides for a public notice certification process by the State or Indian tribe that it has completed all existing known coal-related reclamation objectives for eligible lands or waters. Section 875.15(d) then allows the State or Indian tribe to submit to the Director a grant application for AML funding of specific non-coal projects. Section 875.15(e) details the information required in the grant application. In particular, paragraph (e)(7) requires the Director to conduct an analysis and review of the procedures used by the State or Indian tribe to notify and involve the public in the funding request and a copy of all comments received and their resolution by the State or Indian tribe. The 1994 preamble discussion of the § 875.15(e) grant information requirements noted that they were intended to assist the Director in determining whether a ''need'' exists and whether the public had been ''fully appraised and informed'' of the grant request (May 31, 1994, 59 FR 28163).

Irrespective of the outcome of the Director's § 875.15(e) public notice determination, § 875.15(f) next requires that the Director prepare a **Federal Register** notice of the State's or Indian tribe's grant application. Following receipt and evaluation of comments generated by that **Federal Register** notice, the Director is to make his/her decision on the grant application. It is not clear why the 1994 rule required the additional § 875.15(f) **Federal Register** notice of the grant application as there was no preamble discussion of this provision and the enabling statute for § 875.15 does not require the additional notice. (May 31, 1994, 59 FR 28163–4), 30 U.S.C. 1240(f).

Accordingly, we are proposing to make § 875.15(f)'s required **Federal Register** notice discretionary. We believe that if the Director can determine from the § 875.15(e)(7) information previously submitted by the State or Indian tribe in its grant application that the public has already been ''fully appraised and informed'' of the grant request, a subsequent § 875.15(f) required **Federal Register** notice covering the same ground would not meaningfully add to the Director's decision-making process. Conversely, if the Director cannot determine from the (e)(7) information submitted by the State or Indian tribe that the public has been ''fully appraised and informed'' of the grant request, the Director should prepare a § 875.15(f) **Federal Register** notice of the grant request so as to assure adequate public notice. The proposed rule would give the Director the option of requiring an additional **Federal Register** notice dependent on the extent of prior (e)(7) public notice. This would seem to be a reasonable course. It would assure adequate public notice of the State's or Indian tribe's grant request (with or without a **Federal Register** notice) while avoiding the delay and expense of an unnecessary **Federal Register** notice. We are, therefore, proposing to revise § 875.15(f) by inserting the words ''if necessary to ensure adequate public notification.'' Proposed § 875.15(f), with revised inserts italicized, will read as follows:

After review of the information contained in the application, the Director shall, *if necessary to ensure adequate public notification*, prepare a

**Federal Register** notice regarding the State's or Indian tribe's submission and provide for public comment. After receipt and evaluation of any comments and a determination that the funding meets the requirements of the regulations in this part and is in the best interest of the State or Indian tribe AML program, the Director shall approve the request for funding the activity or construction at a cost commensurate with its benefits towards achieving the purposes of the Surface Mining Control and Reclamation Act of 1977.

There are several other practical reasons to reject the current rule's § 875.15(f) requirement of a **Federal Register** notice and to adopt the proposed rule's more flexible approach. The first is that, since the rule was initially promulgated seven years ago, there have been no comments submitted in response to any of the required **Federal Register** notices published by the Director. This fact was brought to light as a result of an inquiry from several of the States and Indian tribes attending the August 2001 AML Conference held in Athens, Ohio, who questioned the need for the Director's required § 875.15(f) **Federal Register** notice. OSM subsequently reviewed its own records and discovered that it had never received any public comments to the required § 875.15(f) **Federal Register** notices. The agency then polled the 6 eligible AML programs on the public response to their own subsection (e)(7) public notice efforts. All of the programs questioned the need for the required § 875.15(f) **Federal Register** notice and reported a general lack of public response to their individual (e)(7) public notice efforts. Wyoming's, which is by far the largest of the AML programs certified under § 875.13 and which has funded thirty-six (36) § 875.15 public facilities projects with AML grant funds, report was of particular note. Although Wyoming's AML program provides for extensive local public notice and a public hearing on all proposed § 875.15 projects, that State reported that ''even these local opportunities for comment elicit little if any response from those directly impacted by the project.'' This consistent lack of local response to local notice from the Wyoming AML program regarding prospective § 875.15 projects underscores the fact that the current rule's requirement for additional **Federal Register** notice, while helpful in theory, has not produced meaningful public notice and comment.

OSM's polling of the 6 States and Indian tribes brought to light additional reasons not to retain the current rule's **Federal Register** notice requirement. The Navajo Nation, which has a substantial number of applications ready for processing as soon as its revised AML plan is approved, strongly opposes the current rule's required **Federal Register** notice because of its own internal AML notice procedures. By tribal law, the Navajo Nation has had to hold public meetings for each of its 100 or more individual political units whenever AML funds are to be used anywhere in their tribal boundaries for the construction of public facilities. The current rule's § 875.15(f) required **Federal Register** notice would, therefore, trigger a redundant, time-consuming round of tribal meetings on the very same projects.

Another reason given by some of the States and Indian tribes for opposing the continuance of the § 875.15(f) required **Federal Register** notice is that for programs with shorter construction seasons like those of Montana and Wyoming, the required **Federal Register** notice adds 45 to 60 days to the project approval process. These additional 45 to 60 days can push completion of a funded public facility well into the next construction season.

In light of the above, we are proposing to remove the requirement in § 875.15(f) that the Director always publish a **Federal Register** notice informing the public of the grant application. Instead, the Director would retain the option of publishing such notice if his/her analysis and review of the notice information required under § 875.15(e)(7) indicated that inadequate procedures were used to notify and involve the public in the funding request. In this way, the public will be assured that it has been fully apprised of the grant application while also being protected from the delay and expense of an unnecessary **Federal Register** notice.

*Technical Corrections*

In addition to the above, we are also revising our regulations at §§ 875.15(d) and (e) to correct errors in four existing cross-references. In § 875.15(d), we are changing the cross references from paragraphs (a), (d), and (e) to paragraphs (b), (e), and (f), respectively. In § 875.15(e), we are changing the cross reference from paragraph (c) to paragraph (d). These revisions to the cross references will not result in any substantive changes in the application of our regulations.

Finally, we have rewritten '' 875.15(f) in plain language format by incorporating numbered paragraphs to make the section more reader friendly. No substantive changes resulted from using the plain language format.

*How Will This Rule Affect State and Indian Programs?*

Following publication of a final rule, we evaluate the State and Indian programs approved under section 405 of SMCRA to determine any changes in those programs that may be necessary. When we determine that a particular State program provision should be amended, the particular State will be notified in accordance with the provisions of 30 CFR 732.17. On the basis of the proposed rule, we have made a preliminary determination that no program revisions will be required.

## II. How Do I Submit Comments on the Proposed Rule?

*Written Comments:* If you submit written comments on the proposed rule during the 60-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for any recommended change(s). Where practicable, you should submit three copies of your comments. Comments delivered to an address other than those listed above (see **ADDRESSES**) may not be considered or included in the Administrative Record.

*Availability of Comments:* Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at the OSM Administrative Record Room (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent=s identity, to the extent allowed by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

*Public hearings:* We will hold a public hearing on the proposed rule upon request only. The time, date, and address for any hearing will be announced in the **Federal Register** at least 7 days prior to the hearing.

Any person interested in participating in a hearing should inform Mr. Danny Lytton (see **FOR FURTHER INFORMATION CONTACT**), either orally or in writing by 5:00 p.m., Eastern time, on July 10,

2002. If no one has contacted Mr. Lytton to express an interest in participating in a hearing by that date, a hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held, with the results included in the Administrative Record.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard. To assist the transcriber and ensure an accurate record, we request, if possible, that each person who testifies at a public hearing provide us with a written copy of his or her testimony.

**III. Procedural Matters and Required Determinations**

*Executive Order 12866—Regulatory Planning and Review*

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

a. This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities. The elimination of the mandatory requirement to publish a **Federal Register** notice is not expected to have an adverse economic impact on States and Indian tribes. It may in fact reduce constructions costs in northern climates by eliminating delays.

b. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

c. This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

d. This rule does not raise novel legal or policy issues.

*Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not considered a Asignificant energy action'' under Executive Order 13211. The elimination of the mandatory requirement to publish a **Federal Register** notice will not have a significant affect on the supply, distribution, or use of energy. The elimination of the mandatory requirement may reduce constructions costs in northern climates by eliminating delays.

*Regulatory Flexibility Act*

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). As previously stated, the elimination of the requirement for a mandatory **Federal Register** notice is not expected to have an adverse economic impact. Further, the rule produces no adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises for the reasons stated above.

*Unfunded Mandates*

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, Tribal, or local governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1534) is not required.

*Executive Order 12630—Takings*

In accordance with Executive Order 12630, the rule does not have significant takings implications.

*Executive Order 12612—Federalism*

In accordance with Executive Order 12612, the rule does not have significant Federalism implications to warrant the preparation of a Federalism Assessment for the reasons discussed above.

*Executive Order 12988—Civil Justice Reform*

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

*Paperwork Reduction Act*

This rule does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act to the Office of Management and Budget is not required.

*National Environmental Policy Act*

OSM has reviewed this rule and determined that it is categorically excluded from the National Environmental Policy Act process in accordance with the Departmental Manual 516 DM 2, Appendix 1.10.

*Clarity of This Regulation*

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections (A ''section'' appears in bold type and is preceded by the symbol ''§ '' and a numbered heading; for example, § 875.15.)? (5) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the proposed rule? (6) What else could we do to make the proposed rule easier to understand? Send a copy of any comments that concern how we could make this proposed rule easier to understand to: Office Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW, Washington, DC 20240. You may also e-mail the comments to this address: *Exsec@ios.doi.gov.*

**List of Subjects in 30 CFR Part 875**

Grant program—natural resources, Indian lands, Reclamation, Surface mining, Underground mining.

Dated: May 16, 2002.

**Rebecca W. Watson,**

*Assistant Secretary, Land and Minerals Management.*

Accordingly, we propose to amend 30 CFR part 875 as set forth below.

## PART 875—NONCOAL RECLAMATION

1. The authority citation for part 875 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Amend § 875.15 as follows:

a. In paragraph (d), remove the phrases ''paragraph (a),'' ''paragraph (d),'' and ''paragraph (e)'' and in their place add ''paragraph (b),'' ''paragraph (e),'' and ''paragraph (f),'' respectively.

b. In paragraph (e), remove the phrase ''paragraph (c)'' and add ''paragraph (d).''

c. Revise paragraph (f) to read as follows.

### 875.15 Reclamation priorities for noncoal program.

* * * * *

(f) After review of the information contained in the application, the Director will, if necessary to ensure adequate public notification, prepare a **Federal Register** notice regarding the State's or Indian Tribe's submission and provide for public comment. The Director will then:

(1) Evaluate any comments received;

(2) Determine whether the funding meets the requirements of this part;

(3) Determine whether the funding is in the best interest of the State or Indian tribe AML program;

(4) If the determinations under paragraphs (f)(2) and (f)(3) of this section are positive, approve the request for funding the activity or construction; and

(5) Approve funding under paragraph (f)(4) of this section only at a cost commensurate with its benefits towards achieving the purposes of the Surface Mining Control and Reclamation Act of 1977.

[FR Doc. 02–15374 Filed 6–18–02; 8:45 am]

BILLING CODE 4310–05–P


Federal Register

**Wednesday,**
**June 19, 2002**

**Part III**

# Department of Housing and Urban Development

**Announcement of Funding Awards for Fiscal Year 2002; Community Development Work Study Program; Notice**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4719–FA–02]**

### Announcement of Funding Awards for Fiscal Year 2002; Community Development Work Study Program

**AGENCY:** Office of the Assistant Secretary for Policy Development and Research, HUD.

**ACTION:** Announcement of funding awards.

**SUMMARY:** In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for the Fiscal Year 2002 Community Development Work Study Program (CDWSP). The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards to be used to attract economically disadvantaged and minority students to careers in community and economic development, community planning and community management, and to provide a cadre of well-qualified professionals to plan, implement, and administer local community development programs.

**FOR FURTHER INFORMATION CONTACT:** Susan Brunson, Office of University Partnerships, U.S. Department of Housing and Urban Development, Room 8106, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–3061, extension 3852. To provide service for persons who are hearing- or speech-impaired, this number may be reached via TTY by dialing the Federal Information Relay Service on (800) 877–8399, or 202–708–1455. (Telephone numbers, other than the two ''800'' numbers, are not toll free.)

**SUPPLEMENTARY INFORMATION:** The CDWSP is administered by the Office of University Partnerships under the Assistant Secretary for Policy Development and Research. The Office of University Partnerships administers HUD's ongoing grant programs to institutions of higher education and creates initiatives which colleges and universities can bring their traditional missions of teaching, research, service, and outreach to bear on the pressing local problems in their communities.

The CDWSP was enacted in the Housing and Community Development Act of 1988. (Earlier versions of the program were funded by the Community Development Block Grant Technical Assistance Program from 1982 through 1987 and the Comprehensive Planning Assistance Program from 1969 through 1981.) Eligible applicants include institutions of higher education having qualifying academic degrees, and areawide planning organizations and States that apply on behalf of such institutions. The CDWSP funds graduate programs only. Each participating institution of higher education is funded for a minimum of three and maximum of five students under the CDWSP. The CDWSP provides each participating student up to $9,000 per year for a work stipend (for internship-type work in community building) and $5,000 per year for tuition and additional support (for books and travel related to the academic program). Additionally, the CDWSP provides the participating institution of higher education with an administrative allowance of $1,000 per student per year.

The Catalog of Federal Domestic Assistance number for this program is 14.512.

On February 8, 2002 (67 FR 6123) HUD published a Notice of Funding Availability (NOFA) announcing the availability of $3 million in FY 2002 funds for the CDWSP. The Department reviewed, evaluated and scored the applications received based on the criteria in the NOFA. As a result, HUD has funded the applications announced below, and in accordance with Section in accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, U.S.C. 3545), the Department is publishing details concerning the recipients of funding awards, as set forth below.

**List of Awardees for Grant Assistance Under the FY 2002 Community Development Work Study Program Funding Competition, by Name, Address, Phone Number, Grant Amount and Number of Students Funded**

*New England*

1. University of Massachusetts-Lowell, Linda Concino, Research Foundation, 600 Suffolk Street, 2nd Floor, Lowell, MA 01854, (978) 934–4723. Grant: $90,000 to fund 3 students.

2. Southern New Hampshire University, Dr. Cathy LaForge, School of Community Economic Development, 2500 N. River Road, Manchester, NH 03106–1045, (603) 644–3137. Grant: $90,000 to fund 3 students.

*New York/New Jersey*

3. New School University, Dr. Susan Morris, New School University, Robert J. Milano School of Management and Urban Policy, 66 West 12th Street, New York, NY 10011, (212) 229–5311, ext. 1106. Grant: $90,000 to fund 3 students.

4. State University of New York-Buffalo, Dr. Henry L. Taylor, Jr., Research Foundation at SUNY, Suite 211 UB Commons, 520 Lee Entrance, Amherst, NY 14228, (716) 829–2133, ext. 212. Grant: $90,000 to fund 3 students.

*Mid-Atlantic*

5. Carnegie Mellon University, Dr. Brenda Peyser, Carnegie Mellon University, H. John Heinz III School of Public Policy and Management, 5000 Forbes Avenue, Pittsburgh, PA 15213, (412) 268–2162. Grant: $90,000 to fund 3 students.

6. University of Pittsburgh, Dr. David Y. Miller, University of Pittsburgh, Office of Research, 350 Thackeray Hall, Pittsburgh, PA 15260, (412) 648–2605. Grant: $90,000 to fund 3 students.

7. The Trustee of the University of Pennsylvania, Dr. Eugenie L. Birch, University of Pennsylvania, Department of City and Regional Planning, 3451 Walnut Street, P221 Franklin Building, Philadelphia, PA 19104–6205, (215) 898–8330. Grant: $90,000 to fund 3 students.

8. Metropolitan Washington Council of Governments, David Robertson, Metropolitan Washington Council of Governments, Human Service, Planning and Public Safety, 777 North Capitol Street, NE., Suite 300, Washington DC 20002, (202) 962–3260. Grant: $270,000 to fund 3 students each at the University of Maryland, the University of the District of Columbia, and George Mason University.

9. Virginia Polytechnic Institute and State University, Theodore Koebel, Office of Sponsored Programs, 460 Turner Street, Suite 306, Blacksburg, VA, 20406, (540) 231–3993. Grant: $90,000 to fund 3 students.

10. West Virginia University, Alan B. Martin, West Virginia University, Division of Public Administration, Office of Sponsored Program, 886 Chestnut Ridge Road, P.O. Box 6845, Morgantown, WV 26506–6845, (304) 293–7398. Grant: $85,514 to fund 3 students.

*Southeast/Caribbean*

11. Florida State University, Dr. Raymond E. Bye, Jr., Florida State University, Department of Urban and Regional Planning, 118 North Woodward Avenue, Tallahassee, FL 32306–4166, (850) 644–5260. Grant: $88,572 to fund 3 students.

12. Duke University, Dr. Donna L. Dyer, P.O. Box 90239, Durham, NC 27708, (919) 613–7383. Grant: $90,000 to fund 3 students.

13. University of North Carolina at Chapel Hill, Dr. Roberto Quercia, University of North Carolina at Chapel Hill, Center for Urban and Regional Studies, CB#4100, Room 300, Bynum Hall, Chapel Hill, NC 27599–4100, (919) 962–4766. Grant: $90,000 to fund 3 students.

14. Clemson University, Dr. M. Grant Cunningham, Clemson University, Department of Planning and Landscape Architecture, 300 Brackett Hall, Box 345702, Clemson, SC 29634–5702, (864) 656–1587. Grant: $88,005 to fund 3 students.

15. University of Tennessee at Chattanooga, Dr. Diane Miller, University of Tennessee at Chattanooga, Office of Grants and Research, 615 McCallie Avenue, Chattanooga, TN 37403, (423) 755–4431. Grant: $90,000 to fund 3 students.

*Midwest*

16. Southern Illinois University Edwardsville, Dr. T.R. Carr, Southern Illinois University Edwardsville, Public Administration and Policy Analysis, Campus Box 1046, Edwardsville, IL 62026–1046, (618) 650–3762. Grant: $89,028 to fund 3 students.

17. Minnesota State University-Mankato, Dr. Perry Wood, Minnesota State University-Mankato, Urban and Regional Studies Institute, Mankato, MN 56001, (507) 389–6949. Grant: $90,000 to fund 3 students.

18. University of Cincinnati, Dr. David Varady, University of Cincinnati, Office of Sponsored Programs, P.O. Box 210627, Cincinnati, OH 45221–0627, (513) 556–0215. Grant: $90,000 to fund 3 students.

19. Eastern Kentucky University, Dr. Terry Busson, Eastern Kentucky University, Department of Government, 521 Lancaster Avenue, Richmond, KY 40475, (859) 622–1019. Grant: $90,000 to fund 3 students.

20. Indiana University-South Bend, Dr. Leda McIntyre Hall, Indiana University, School of Public and Environmental Affairs, P.O. Box 1847, Bloomington, IN 47402. Grant: $89,868 to fund three students.

21. University of Michigan, Dr. Margaret Dewar, University of Michigan, Taubman College of Architecture & Urban Planning, Fleming Administration Building, 503 Thompson Street, Ann Arbor, MI 48109–2069, (734) 763–2528. Grant: $90,000 to fund 3 students.

22. University of Wisconsin-Milwaukee, Dr. Stephen Percy, University of Wisconsin-Milwaukee, Center for Urban Initiatives and Research, P.O. Box 340, Milwaukee, WI 53201, (414) 229–5916. Grant: $89,550 to fund 3 students.

*Southwest*

23. North Central Texas Council of Governments, Dr. R. Michael Eastland, North Central Texas Council of Governments, P.O. Box 5888, Arlington, TX 76005–5888, (817) 695–9103. Grant: $180,000 to fund 3 students each at the University of North Texas and the University of Texas at Arlington.

24. University of Texas at San Antonio, Noe Saldana, Department of Public Administration, 501 W. Durango, San Antonio, TX 78207, (210) 458–4340. Grant: $85,278 to fund 3 students.

25. The Regents of the University of New Mexico, Dr. Teresa Cordova, School of Architecture and Planning, Office of Research Services, 105 Scholes Hall, Albuquerque, NM 87131 (505) 277–3922. Grant: $87,000 to fund 3 students.

*Great Plains*

26. University of Nebraska at Omaha, Dr. Russell L. Smith, University of Nebraska at Omaha, School of Public Administration, 6001 Dodge Street, Omaha, NE 68182, (402) 554–2625. Grant: $86,558 to fund 3 students.

*Pacific/Hawaii*

27. California Polytechnic State University Foundation, Dr. Jill Keezer, California Polytechnic State University Foundation, Office of Sponsored Programs, Foundation Bldg., #15, San Luis Obispo, CA 93407, (805) 756–1123. Grant: $90,000 to fund 3 students.

28. University of Southern California, Dr. Tridib Banerjee, University of Southern California, School of Policy, Planning and Development, RGL 301, Los Angeles, CA 90089–0626, (213) 740–4724. Grant: $90,000 to fund 3 students.

29. University of Arizona, Georgia Ehlers, University of Arizona, Grants & Scholarship Development, P.O. Box 210066, Tucson, AZ 85721–0066, (520) 621–9103. Grant: $90,000 to fund 3 students.

*Northwest/Alaska*

30. Eastern Washington University, Dr. William Kelley, Eastern Washington University, Urban and Regional Planning Program, 3 Riverpoint, Spokane, WA 99202–1660, (509) 358–2226. Grant: $90,000 to fund 3 students.

Dated: June 12, 2002.

**Lawrence L. Thompson,**

*General Deputy Assistant Secretary for Policy Development, Development and Research.*

[FR Doc. 02–15384 Filed 6–18–02; 8:45 am]

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Federal Register

**Wednesday,**
**June 19, 2002**

**Part IV**

# Department of Education

**Rehabilitation Engineering Research Centers (RERC) Program; Notice**

## DEPARTMENT OF EDUCATION

### Rehabilitation Engineering Research Centers (RERC) Program

**AGENCY:** National Institute on Disability and Rehabilitation Research (NIDRR), Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Notice of final priorities.

**SUMMARY:** The Assistant Secretary announces final priorities for up to five Rehabilitation Engineering Research Centers (RERCs). The Assistant Secretary may use one or more of these priorities for competitions in fiscal year (FY) 2002 and later years. We take this action to focus research attention on areas of national need. We intend these priorities to improve the rehabilitation services and outcomes for individuals with disabilities.

**EFFECTIVE DATE:** These priorities are effective on July 19, 2002.

**FOR FURTHER INFORMATION CONTACT:** Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 3412, Switzer Building, Washington, DC 20202–2645. Telephone: (202) 205–5880 or via the Internet: *donna.nangle@ed.gov*

If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205–4475.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

**SUPPLEMENTARY INFORMATION:**

### Description of Rehabilitation Engineering Research Centers

RERCs carry out research or demonstration activities by:

(a) Developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to (1) solve rehabilitation problems and remove environmental barriers and (2) study new or emerging technologies, products, or environments;

(b) Demonstrating and disseminating (1) innovative models for the delivery of cost-effective rehabilitation technology services to rural and urban areas and (2) other scientific research to assist in meeting the employment and independent living needs of individuals with severe disabilities; or

(c) Facilitating service delivery systems change through (1) the development, evaluation, and dissemination of consumer-responsive and individual and family-centered innovative models for the delivery to both rural and urban areas of innovative cost-effective rehabilitation technology services and (2) other scientific research to assist in meeting the employment and independence living needs of individuals with severe disabilities.

Each RERC must provide training opportunities in conjunction with institutions of higher education and nonprofit organizations to assist individuals, including individuals with disabilities, in becoming rehabilitation technology researchers and practitioners.

We make awards for up to 60 months through grants or cooperative agreements to public and private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations, to conduct research, demonstration, and training activities regarding rehabilitation technology in order to enhance opportunities for meeting the needs of, and addressing the barriers confronted by, individuals with disabilities in all aspects of their lives. An RERC must be operated by or in collaboration with an institution of higher education or a nonprofit organization.

### Centers of Excellence

RERCs are expected to function as Centers of Excellence. The NIDRR Centers of Excellence Model identifies four major areas in which centers are expected to excel: (1) Scientific research and development; (2) capacity building and training for research and development and practice; (3) relevance and productivity (including dissemination); and (4) administration and evaluation. RERCs must develop consumer and industrial partnerships to ensure the relevance and appropriateness of research directions and to transfer research-generated knowledge into commercial products. Each RERC must operate as part of a national network and extend beyond the boundaries of its programmatic objectives to become a leader in its field, attract new research dollars, and significantly improve the education of professionals, consumers, and manufacturers. For information about NIDRR's Centers of Excellence Model, applicants are invited to visit the following website: *http://www.cessi.net/pr/RERC/Summative/CoEmodel.html*

### Program Review

RERCs are required to participate in NIDRR's program review process. Program review is a key element in NIDRR's quality assurance, performance monitoring, and evaluation and provides an opportunity for staff and key stakeholders to interact with grantees and provide feedback on center activities. As part of this evaluation system, NIDRR conducts both formative (early in the five-year funding cycle) and summative (toward the end of the fourth year) reviews. The overall goal of the formative review is to support grantees in becoming centers of excellence across the four major areas. The overall goal of the summative review is to evaluate the quality and relevance of each center's accomplishments and results.

In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment.

These priorities reflect issues discussed in the New Freedom Initiative (NFI) and NIDRR's Long-Range Plan (the Plan). The NFI can be accessed at: *http://www.whitehouse.gov/news/freedominitiative/freedominitiative.html* The Plan can be accessed at: *http://www.ed.gov/offices/OSERS/NIDRR/Products*

We published a notice of proposed priorities for the Rehabilitation Engineering Research Centers (RERC) Program in the **Federal Register** on March 12, 2002 (67 FR 11204).

Except for minor revisions, there are no differences between the notice of proposed priorities and this notice of final priorities.

Generally, we do not address technical and other minor changes and suggested changes the law does not authorize us to make under the applicable statutory authority.

In response to our invitation in the notice of proposed priorities 21 parties submitted comments. We fully explain these changes in the Analysis of Comments and Changes elsewhere in this notice. We group major issues according to subject.

**Note:** This notice does not solicit applications. A notice inviting applications is published in this issue of the **Federal Register**.

### Priorities

*Background*

Technology plays a vital role in the lives of millions of disabled and older Americans. Advances in assistive technology and adoption of principles of universal design have significantly improved the quality of life for these individuals. Individuals with significant disabilities regularly use products developed as the result of rehabilitation and biomedical research to achieve and

maintain maximum physical function, live independently, study and learn, and attain gainful employment. The range of engineering research has broadened to encompass not only assistive technology but also technology at the systems level (i.e., the built environment, information and communication technologies, transportation, etc.) and technology that interfaces between the individual and systems technology and is basic to community integration.

The NIDRR RERC program has been a major force in the development of technology to enhance independent function for individuals with disabilities. The RERCs are recognized as national centers of excellence in their respective areas and collectively represent the largest federally supported program responsible for advancing rehabilitation engineering research.

For example, the RERC program was an early pioneer in the development of augmentative communication and has been at the forefront of prosthetics and orthotics research for both children and adults. A recently established RERC is responsible for designing prosthetics for land mine survivors from developing countries using indigenous materials and fabrication capabilities. The RERC on Telerehabilitation is developing methods for the efficient delivery of rehabilitation services in rural settings and to reduce the cost of long-term care.

RERCs have played a major role in the development of voluntary standards that industry uses when developing wheelchairs, wheelchair restraint systems, information technologies, and the World Wide Web. The RERC on Low Vision and Blindness helped develop talking sign technologies that are currently being utilized in major cities in both the United States and Japan to help blind and visually impaired individuals navigate city streets and subways. RERCs have been a driving force in the development of universal design principles that can be applied to the built environment, information technology and telecommunications, transportation, and consumer products. The clinical use of electromyography, gait analysis, and functional electrical stimulation has been made possible due to earlier research supported by the RERC program.

Significant financial investments in basic biomedical science and technology are paying off with new opportunities to further enhance the lives of people with disabilities. Recent advances in biomaterials research, composite technologies, information and telecommunication technologies, nanotechnologies, micro electro mechanical systems (MEMS), sensor technologies, tissue engineering, and the neurosciences also provide a wealth of opportunities for individuals with disabilities and should be incorporated into research focused on disability and rehabilitation. In recognition of this need, the President's ''New Freedom Initiative'' has identified the RERC program as one worthy of expansion and the Administration has significantly increased the RERC budget for fiscal year 2002 (New Freedom Initiative, 2001).

NIDRR intends to fund up to five new RERCs in fiscal year 2002. Applicants must select from the following priority topic areas: (a) Spinal Cord Injury; (b) Recreational Technologies and Exercise Physiology Benefiting Persons with Disabilities; (c) Applied Biomaterials; (d) Measurement and Monitoring of Functional Performance; (e) Accessible Medical Instrumentation; (f) Universal Interface Technologies; (g) Work Place Accommodations; (h) Accessible Airline Transportation; and (i) Rehabilitation Robotics and Telemanipulation Systems. Applicants are allowed to submit more than one proposal as long as each proposal addresses only one RERC topic area.

**Priorities**

We intend to fund up to five RERCs that will focus on innovative technological solutions, new knowledge, and concepts to promote the health, safety, independence, active engagement in daily activities, and quality of life of persons with disabilities. Each RERC must:

(1) Contribute substantially to the technical and scientific knowledge-base relevant to its respective subject area;

(2) Research, develop, and evaluate innovative technologies, products, environments, performance guidelines, and monitoring and assessment tools as applicable to its respective subject area;

(3) Identify, implement, and evaluate, in collaboration with the industry, professional associations, and institutions of higher education, innovative approaches to expand research capacity in its respective field of study;

(4) Monitor trends and evolving product concepts that represent and signify future directions for technologies in its respective area of research;

(5) Provide technical assistance to public and private organizations responsible for developing policies, guidelines, and standards that affect its respective area of research.

In addition to the activities proposed by the applicant to carry out these purposes, each RERC must:

- Develop and implement in the first year of the grant, in consultation with the NIDRR-funded National Center for the Dissemination of Disability Research (NCDDR), a plan to disseminate the RERC's research results to disability organizations, persons with disabilities, technology service providers, businesses, manufacturers, and appropriate journals;
- Develop and implement in the first year of the grant, in consultation with the NIDRR-funded RERC on Technology Transfer, a plan for ensuring that all new and improved technologies developed by the RERC are successfully transferred to the marketplace;
- Conduct a state-of-the-science conference on its respective area of research in the third year of the grant cycle and publish a comprehensive report on the final outcomes of the conference in the fourth year of the grant cycle; and
- Coordinate on research projects of mutual interest with relevant NIDRR-funded projects as identified through consultation with the NIDRR project officer.

Each RERC must focus on one of the following priority topic areas:

(a) *Spinal Cord Injury:* This center must conduct research and develop applications that address problems in the treatment, rehabilitation, employment, and reintegration into society of persons with spinal cord injury. This center will be expected to work collaboratively with the NIDRR-funded Model Spinal Cord Injury Centers program;

(b) *Recreational Technologies and Exercise Physiology Benefiting Persons With Disabilities:* This center must research and develop technologies that will enhance recreational opportunities for people with disabilities and develop methods to enhance the physical performance and endurance of people with disabilities;

(c) *Applied Biomaterials:* This center must facilitate the application of advances in materials and tissue engineering for medical rehabilitation applications such as prosthetics and orthotics, implants, reconstructive surgery, and burns. It will bring together leaders in biomedical research, medical practitioners, and consumers to promote the design, development, and utilization of state-of-the-art methodologies and products for rehabilitation and disability applications;

(d) *Measurement and Monitoring of Functional Performance:* This center must research and develop technologies and methods that effectively assess the outcomes of rehabilitation therapies by combining measurements of

physiological performance with measures of functional performance;

(e) *Accessible Medical Instrumentation:* This center must research, develop, and evaluate methods and technologies to increase the usability and accessibility of diagnostic, therapeutic, and procedural healthcare equipment (i.e., equipment used during medical examinations, treatment, etc.) for people with disabilities. This includes developing methods and technologies that are useable and accessible for patients and health care providers with disabilities;

(f) *Universal Interface Technologies:* This center must research, develop, and evaluate universal interface technologies that will allow for easy integration of multiple technologies used by individuals with disabilities (e.g., augmentative communication devices, powered mobility devices, environmental control systems, telecommunication systems, and information technologies, including multimedia systems). This includes effective speech to text systems, eye and head control systems, and methods to enhance the utility of graphical devices for the visually impaired;

(g) *Work Place Accommodations:* This center must research, develop, and evaluate devices and systems to enhance the productivity of people with disabilities in the workplace. It must emphasize the application of universal design concepts to improve the utility of workplace tools and devices for all workers;

(h) *Accessible Airline Transportation:* This center must research and develop methods, systems, and devices that will promote and enhance the ability of people with disabilities to safely and efficiently embark/disembark, travel comfortably, and use restroom facilities on commercial passenger airliners; and

(i) *Rehabilitation Robotics and Telemanipulation Systems:* This center must explore the use of human-scale robots and telemanipulation (the integration of human-control with a manipulator) systems that will address the unique needs of people with disabilities and rehabilitation.

**Intergovernmental Review**

This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

*Applicable Program Regulations:* 34 CFR part 350.

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(Catalog of Federal Domestic Assistance Number: 84.133E, Rehabilitation Engineering Research Center Program.)

**Program Authority:** 29 U.S.C. 762(g) and 764(b)(3).

Dated: June 13, 2002.

**Robert H. Pasternack,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

## Appendix

**Analysis of Comments and Changes**

*Rehabilitation Engineering Research Centers*

General Comments

*Comment:* The language used in the section titled ''Description of Rehabilitation Engineering Research Centers'' describes activities that could be carried out by a team lacking significant engineering input (e.g., by social scientists working with consumers and practitioners). While such research is valuable, the explicit involvement of engineers is what delineates the RERC program from other NIDRR (and National Institutes on Health) funded programs.

*Discussion:* Language used in the **Federal Register** to describe the RERC program is from regulatory language published in the Code of Federal Regulations (34 CFR Part 350.32). While NIDRR agrees that engineers must be an integral part of all RERCs, it is also important for each center to involve requisite skills and knowledge from other relevant professionals and consumers.

*Changes:* None.

*Comment:* Two commenters believe that the sentence ''NIDRR is particularly interested in applications that address topic areas (a) and (b)'' is awkward and out of context with the spirit of the rest of the proposed priority. It is felt that the sentence should either be removed altogether or separate (a) and (b) from this priority and have multiple announcements.

*Discussion:* NIDRR agrees that the language is awkward and out of context with the spirit and open nature of this competition.

*Changes:* The phrase ''NIDRR is particularly interested in applications that address topic areas (a) and (b)'' has been deleted.

*Comment:* Both the Rehabilitation Robotics and Telemanipulation Systems and the Spinal Cord Injury priority topic areas should be funded or perhaps combined if funds are not available to fund both centers.

*Discussion:* NIDRR believes that all nine priority topic areas are important and are worthy of funding. NIDRR also believes there is a critical mass of work that needs to be done within each priority topic area and that combining topic areas as suggested by the commenter would only result in fewer resources for each topic area thereby affecting the ability to carry out the necessary research and development activities.

*Changes:* None.

*Comment:* One of the most profound impairments resulting from physical, sensory or cognitive disability is the dramatically reduced access to formal and continuing education experienced by these individuals. NIDRR should include a new priority topic area that addresses this need or, at least, include a requirement that all RERCs address this need.

*Discussion:* NIDRR agrees that education is important for all people, including those with disabilities. However, creating a center or requiring all centers to address educational issues is beyond the scope of the RERC program. There are other programs within the Department of Education (i.e., Office of Special Education Programs and Rehabilitation Services Administration) whose mission is to ensure that no child is left behind with regards to receiving an appropriate and accessible education as well as preparation for employment.

*Changes:* None.

*Comment:* While NIDRR's proposed priorities are stated with admirable clarity, their very clarity restricts the range of constructive responses. Therefore, it is recommended that NIDRR support RERC proposals that present innovative combinations and/or permutations of these priority topic areas.

*Discussion:* NIDRR believes there is a critical mass of work that needs to be done within each priority topic area and that combining topic areas and/or permutations of these topic areas would only result in fewer resources for each topic area thereby affecting the ability to carry out the necessary research and development activities.

*Changes:* None.

*Comment:* One commenter believes that all priority topic areas should be required to focus on multicultural and linguistic diversity of individuals with disabilities.

*Discussion:* All applicants are required to address the needs of individuals with disabilities from minority backgrounds pursuant to the regulatory language published in the Code of Federal Regulations (34 CFR Part 350.40). In addition to this requirement, an applicant could propose activities that focus on the linguistic diversity of individuals with disabilties and the peer review process will evaluate the merits of the proposal. However, NIDRR has no basis to determine that all applicants should be required to focus on the linguistic diversity of individuals with disabilities.

*Changes:* None.

*Spinal Cord Injury Topic (SCI) Area*

*Comment:* Given that communication disabilities are a possible result of SCI, the RERC on SCI should be required to include activities that look at respiratory, voice, and

communication disabilities resulting from SCI.

*Discussion:* An applicant could propose activities that focus on communication disabilities resulting from spinal cord injuries disabilities and the peer review process will evaluate the merits of the proposal. However, NIDRR has no basis to determine that all applicants should be required to focus on communication disabilities resulting from SCI.

*Changes:* None.

*Comment:* One commenter believes that the RERC on SCI should be required to focus some of its research and development activities on the unique challenges facing individuals with spinal cord injuries who reside in rural communities and states.

*Discussion:* An applicant could propose activities that focus on the unique challenges facing individuals with spinal cord injuries who reside in rural communities and states. The peer review process will evaluate the merits of the proposal. However, NIDRR has no basis to determine that all applicants should be required to focus on the unique challenges facing individuals with spinal cord injuries who reside in rural communities and states.

*Change:* None.

*Recreational Technologies and Exercise Physiology Benefiting Persons With Disabilities Topic Area*

*Comment:* One commenter recommended separating exercise physiology from the Recreational Technologies and Exercise Physiology Benefiting Persons with Disabilities priority topic area and creating a new RERC priority topic area that focuses solely on exercise physiology. The rationale provided to support this recommendation was that exercise physiology is a very broad field and includes metabolic assessment of exercise interventions on multiple organ systems.

*Discussion:* NIDRR believes that combining recreational technologies and exercise physiology provides opportunities for collaboration and resource sharing and is strategically a sound approach.

*Changes:* None.

*Comment:* One commenter asked if it is possible to submit a proposal for the RERC on Recreational Technologies and Exercise Physiology Benefiting Persons with Disabilities if the principal investigator is not a rehabilitation engineer. While the need for rehabilitation engineering is important, the most important issue is getting people with disabilities to start doing some form of exercise and determining successful adherence strategies.

*Discussion:* NIDRR has no requirement that RERC principal investigators must be rehabilitation engineers. However, NIDRR believes that engineers should play an integral role in all RERCs. An applicant may submit a proposal without demonstrating engineering expertise and the peer review process will evaluate the merits of the proposal.

*Changes:* None.

*Comment:* The RERC on Recreational Technologies and Exercise Physiology Benefiting Persons with Disabilities should be required to address the rehabilitation needs of heart and pulmonary recovery/chronic populations (e.g., rehabilitation following heart attack).

*Discussion:* An applicant could propose activities that focus on the rehabilitation needs of individuals with heart and pulmonary complications disabilities and the peer review process will evaluate the merits of the proposal. However, NIDRR has no basis to determine that all applicants should be required to focus on the rehabilitation needs of individuals with heart and pulmonary complications.

*Changes:* None.

*Applied Biomaterials Topic Area*

*Comment:* The study of implant biomaterials is historically removed from rehabilitation and involve different scientific and industrial cultures. It might be of value to require this RERC to marry these cultures by requiring them to target the relationship between the rehabilitation recovery process and implants. Alternatively, ''implant'' could be taken out as an example so that more prominence is given to innovative orthotics and technologies to assist burn victims.

*Discussion:* An applicant could propose to study the relationship between the rehabilitation recovery process and implants. The peer review process will evaluate the merits of the proposal. However, NIDRR has no basis to determine that all applicants should be required to study the relationship between the rehabilitation recovery process and implants. Furthermore, NIDRR believes that including ''implant'' as one of four examples of medical rehabilitation applications increases research potential.

*Changes:* None.

*Measurement and Monitoring of Functional Performance Topic Area*

*Comment:* One commenter suggested that the RERC on Measurement and Monitoring of Functional Performance should be required to translate findings from technical engineering terminology into clinical phrasing for ease of application to patient care and to study at least two dissimilar pathologies to facilitate the development of a clinical perspective that can be more broadly applied.

*Discussion:* All RERCs are required to disseminate research findings to diverse audiences and in doing so they must translate their finding into appropriate and comprehensible language. An applicant may propose to study two dissimilar pathologies to facilitate the development of a clinical perspective that can be more broadly applied. The peer review process will evaluate the merits of the proposal. However, NIDRR has no basis to determine that all applicants should be required to study at least two dissimilar pathologies to facilitate the development of a clinical perspective that can be more broadly applied.

*Changes:* None.

*Comment:* The priority topic area on Measurement and Monitoring of Functional Performance appears to address only ''technologies and methods that effectively assess the outcomes of rehabilitation therapies.'' This topic could be broadened to allow the development of new technologies and methods for rehabilitation therapy. This would encourage a RERC to contribute new techniques in addition to only assessing existing or emerging techniques.

*Discussion:* The Measurement and Monitoring of Functional Performance priority topic area does not preclude an applicant from proposing to develop new technologies and methods for rehabilitation therapy provided the new technologies and methods can be used to measure and monitor functional performance. The peer review process will evaluate the merits of the proposal.

*Changes:* None.

*Accessible Medical Instrumentation Topic Area*

*Comment:* One commenter believes that the Accessible Medical Instrumentation priority is excessively limiting compared to the others and feels that it should be incorporated into the Work Place Accommodations topic area and the existing RERC on Telerehabilitation.

*Discussion:* NIDRR disagrees with the commenter that the Accessible Medical Instrumentation priority topic area is excessively limiting. Accessible diagnostic, therapeutic, and procedural healthcare equipment for people with disabilities, whether as patients or as healthcare providers, is important and warrants a research center that will focus on technological solutions to the problem.

*Changes:* None.

*Universal Interface Technologies Topic Area*

*Comment:* One commenter believes that the RERC on Universal Interface Technologies should be required to address the needs of individuals with severe communication disabilities—especially those who use augmentative communication devices.

*Discussion:* The Universal Interface Technologies priority topic area description identifies augmentative communication devices as one example of multiple technologies used by individuals with disabilities that this RERC can consider when researching and developing universal interface technologies. NIDRR also funds an RERC on Communication Enhancement whose primary responsibility is to focus on research activities benefiting the needs of individuals with severe communications impairments. An applicant could propose to study the relation between the rehabilitation recovery process and implants. The peer review process will evaluate the merits of the proposal. However, NIDRR has no basis to determine that all applicants should be required to study the relation between the rehabilitation recovery process and implants.

*Changes:* None.

*Comment:* One commenter feels that a distinction should be made between technologies that are command oriented (i.e., communication devices, environmental control systems) and those that are control oriented (i.e., mobility devices). While it is important that researchers consider an interface where both types of technologies are easily accessible, the RERC on Universal

Interface Technologies should focus activities on ensuring the seamless integration for command-oriented technologies affecting communication.

*Discussion:* NIDRR agrees with the commenter that the distinction between command and control oriented technologies prior to developing universal interface technologies is important. An applicant may propose activities that ensure a seamless integration for command-oriented technologies affecting communication. The peer review process will evaluate the merits of the proposal. However, NIDRR has no basis to determine that all applicants should be required to focus on activities to ensure a seamless integration for command-oriented technologies affecting communication.

*Changes:* None.

*Comment:* The RERC on Universal Interface Technologies should focus some of its research on appropriate interface choices for individuals with specific disabilities. This research could involve the development of novel access methods and evaluation tools for determining appropriate interface choices for individuals.

*Discussion:* An applicant could propose research on interface choices that are appropriate for specific individuals with disabilities. The peer review process will evaluate the merits of the proposal. However, NIDRR has no basis to determine that all applicants should be required to study the relation between the rehabilitation recovery process and implants research on interface choices that are appropriate for specific individuals with disabilities.

*Changes:* None.

*Work Place Accommodations Topic Area*

*Comment:* The accumulating body of knowledge in job accommodation case experience provides excellent guidance to employers, vocational rehabilitation professionals, and people with disabilities in resolving new issues. This body of knowledge also has the potential for exposing areas of need for accommodation technologies yet to be developed, as well as innovative applications of existing technologies and areas where universal design in workplace tools, products, and systems can reduce the level of accommodation needed. The Work Place Accommodations priority topic area should be expanded to include a requirement that the RERC support existing job accommodation efforts and programs.

*Discussion:* NIDRR agrees with the commenter that there already exists a critical mass of knowledge and expertise in the area of job accommodation and expects all applicants to familiarize themselves with the most current literature and to use that body of knowledge as a foundation for their research and development activities. The peer review process will evaluate the merits of the proposal.

*Changes:* None

*Comment:* The RERC on Work Place Accommodations should be required to develop technologies that will benefit all persons with disabilities, including those with mental illness, in all vocational environments, including sheltered or affirmative settings.

*Discussion:* An applicant could propose activities to develop technologies that will benefit all persons with disabilities, including those with mental illness, in all vocational environments, including sheltered and affirmative settings, and the peer review process will evaluate the merits of the proposal. However, NIDRR has no basis to determine that all applicants should be required to focus on the development of technologies that will benefit all persons with disabilities, including those with mental illness, in all vocational environments, including sheltered and affirmative settings.

*Changes:* None.

*Comment:* The RERC on Work Place Accommodations should be required to develop new and innovative strategies in partnership with special education programs to insure that young persons with disabilities are qualified, trained, and certified to become productive employees in all fields of vocational endeavor.

*Discussion:* An applicant could propose activities to develop new and innovative strategies in partnership with special education programs. The peer review process will evaluate the merits of the proposal. However, NIDRR has no basis to determine that all applicants should be required to focus on the development of new and innovative strategies in partnership with special education programs.

*Changes:* None.

*Comment:* The RERC on Work Place Accommodations should be required to develop paraprofessional training programs to train work place accommodation specialists who are working in American business and industry, including employees with disabilities.

*Discussion:* An applicant could propose activities to develop paraprofessional training programs to train work place accommodation specialists who are working in American business and industry, including employees with disabilities. The peer review process will evaluate the merits of the proposal. However, NIDRR has no basis to determine that all applicants should be required to focus on the development of paraprofessional training programs to train work place accommodation specialists who are working in American business and industry, including employees with disabilities.

*Changes:* None.

*Comment:* The concept of universal design is reasonably well accepted in white-collar work environments. However, this is not the case for blue-collar work environments. The RERC on Work Place Accommodations, in conjunction with the RERC on Ergonomic Solutions for Employment, should be required to pursue the concept of universal design in blue-collar work environments such as the machine tool industry, the robotics industry, and the hand tool industry.

*Discussion:* NIDRR agrees with the commenter and points out that the RERC is required to emphasize the application of universal design concepts to improve the utility of workplace tools and devices for all workers, including those in diverse work environments.

*Changes:* None.

*Comment:* The ADA has not been successful at getting people with disabilities employed largely due to the fact that business and industry are not convinced that persons with disabilities can positively impact their ''bottom line.'' Therefore, the RERC on Work Place Accommodations must develop quantitative outcome measures that generate longitudinal data that correlate accommodation technologies and strategies with personal productivity.

*Discussion:* An applicant can propose to develop quantitative outcome measures that generate longitudinal data that correlate accommodation technologies and strategies with personal productivity under Activities 1 and 2. The peer review process will evaluate the merits of this proposal. However, NIDRR has no basis to determine that all applicants should be required to develop quantitative outcome measures that generate longitudinal data that correlate accommodation technologies and strategies with personal productivity.

*Changes:* None.

*Comment:* One commenter believes that the RERC on Work Place Accommodations should be required to include individuals with communication disabilities among those individuals with disabilities whose productivity must be enhanced.

*Discussion:* An applicant can propose to include individuals with communication disabilities among those with disabilities whose productivity must be enhanced and the peer review process will determine the merits of the proposal. However, NIDRR has no basis to determine that all applicants should be required to include individuals with communication disabilities among those individuals with disabilities whose productivity must be enhanced.

*Changes:* None.

*Comment:* The role of the RERC on Work Place Accommodations should be clarified in relationship to the existing RERC on Ergonomics Solutions for the Work Place.

*Discussion:* The RERC on Ergonomic Solutions for the Work Place is an NIDRR-funded program in its fourth year of a five-year funding cycle. The proposed RERC on Work Place Accommodations is one of nine priority topic areas that applicants may choose from to submit a proposal. If an application in the area of Work Place Accommodations is funded, the relationship between that center and the one on Ergonomic Solutions for the Work Place is expected to be both collaborative and mutually supportive. Each RERC must coordinate on research projects of mutual interest with relevant NIDRR-funded projects as identified through consultation with the NIDRR project officer.

*Changes:* None.

*Accessible Airline Transportation Topic Area*

*Comment:* One commenter pointed out the need for training of airline personnel on how to interact with individuals who use augmentative communications systems (e.g., AAC devices, electrolarynx, sign language) and believes the RERC on Accessible Airline Transportation should be required to address these issues.

*Discussion:* An applicant can propose training for airline personnel on how to

interact with individuals with disabilities who use augmentative communication systems under Activity 5. The peer review process will evaluate the merits of this proposal. However, NIDRR has no basis to determine that all applicants should be required to train airline personnel on how to interact with individuals who use augmentative communication systems.

*Changes:* None.

*Rehabilitation Robotics and Telemanipulation Systems Topic Area*

*Comment:* The RERC on Rehabilitation Robotics and Telemanipulation Systems should be required to investigate robot-aided rehabilitation devices and techniques.

*Discussion:* An applicant could propose to investigate robot-aided rehabilitation devices and techniques. The peer review process will evaluate the merits of the proposal. However, NIDRR has no basis to determine that all applicants should be required to investigate robot-aided rehabilitation devices and techniques.

*Changes:* None.

*Comment:* The RERC on Rehabilitation Robotics and Telemanipulation Systems should be required to investigate intelligent mobility aids, a term used to include a wide range of devices that make use of technology (e.g., sensors, obstacle avoidance algorithms) originally developed for mobile robots to provide independent mobility to individuals with motor or perceptual impairments.

*Discussion:* An applicant could propose to investigate intelligent mobility aids and the peer review process will evaluate the merits of the proposal. However, NIDRR has no basis to determine that all applicants should be required to investigate intelligent mobility aids.

*Changes:* None.

[FR Doc. 02–15393 Filed 6–18–02; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

### Office of Special Education and Rehabilitative Services

**[CFDA No.: 84.133E–7]**

### National Institute on Disability and Rehabilitation Research—Rehabilitation Engineering Research Centers (RERC) Program; Notice Inviting Applications for Fiscal Year 2002

**Note to Applicants:** This notice contains the information, application forms, and instructions you need to apply for a grant under the program.

*Purpose of the Program:* The purpose of the RERC Program is to improve the effectiveness of services authorized under the Rehabilitation Act of 1973 (the Act), as amended.

For FY 2002 the competition for new awards focuses on projects designed to meet the priorities we describe in the PRIORITIES section of this application notice. The priorities are intended to improve rehabilitation services and outcomes for individuals with disabilities.

*Eligible Applicants:* Parties eligible to apply for grants under this program are States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations; institutions of higher education; and Indian tribes and tribal organizations.

*Application Available:* June 19, 2002.

**Letters of Intent**

Due to the open nature of this competition, NIDRR is requiring all potential applicants to submit a Letter of Intent (LOI). Each LOI must be limited to a maximum of four pages and must include the following information: (1) The title of the proposed RERC, the name of the host institution, the name of the Principal Investigator (PI), and the names of partner institutions and entities; (2) a brief statement of the vision, goals, and objectives of the proposed RERC and a description of its research and development activities at a sufficient level of detail to allow NIDRR to select potential reviewers; (3) a list of proposed RERC staff including the Center Director and key personnel; and (4) a list of individuals whose selection as a reviewer might constitute a conflict of interest due to involvement in proposal development, selection as an advisory board member, co-PI relationships, etc.

The signed, original LOI must be received by NIDRR no later than July 19, 2002. Submission of an LOI is a prerequisite for eligibility to submit an application. With prior approval, an e-mail or facsimile copy of an LOI will be accepted, but the signed original must be sent to: William Peterson, U.S. Department of Education, 400 Maryland Avenue, SW., room 3425, Switzer Building, Washington, DC 20202–2645. For further information regarding the LOI requirement, contact William Peterson at (202) 205–9192 or by e-mail at: *william.peterson@ed.gov.*

*Deadline for Transmittal of Applications:* August 19, 2002.

*Maximum Award Amount:* $900,000.

**Note:** We will reject any application that proposes a budget exceeding the stated maximum award amount in any year (See 34 CFR 75.104(b)).

*Estimated Number of Awards:* 5.

*Project Period:* 60 months.

**Note:** The Department is not bound by any estimates in this notice.

**Program Authority:** 29 U.S.C. 762.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 80, 81, 82, 85, 86, and 97, and (b) The program regulations 34 CFR part 350.

**Priorities**

This competition focuses on projects designed to meet the priorities in the notice of final priorities for these programs, published elsewhere in this issue of the **Federal Register**. The priorities are: (a) Spinal Cord Injury; (b) Recreational Technologies and Exercise Physiology Benefiting Persons with Disabilities; (c) Applied Biomaterials; (d) Measurement and Monitoring of Functional Performance; (e) Accessible Medical Instrumentation; (f) Universal Interface Technologies; (g) Work Place Accommodations; (h) Accessible Airline Transportation; and (i) Rehabilitation Robotics and Telemanipulation Systems.

For FY 2002, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet one or more of these priorities.

**Selection Criteria**

We use the following selection criteria to evaluate applications under this program.

The maximum score for all of these criteria is 100 points.

The maximum score for each criterion is indicated in parentheses.

An additional 10 points may be earned by an applicant depending on how well they meet the additional selection criterion elsewhere in this notice.

(a) *Importance of the problem* (6 points total).

(1) The Secretary considers the importance of the problem.

(2) In determining the importance of the problem, the Secretary considers the following factors:

(i) The extent to which the applicant clearly describes the need and target population (3 points).

(ii) The extent to which the proposed project will have beneficial impact on the target population (3 points).

(b) *Responsiveness to an absolute or competitive priority* (4 points total).

(1) The Secretary considers the responsiveness of an application to the absolute or competitive priority published in the **Federal Register**.

(2) In determining the application's responsiveness to the absolute or competitive priority, the Secretary considers the extent to which the applicant addresses all requirements of the absolute or competitive priority (4 points).

(c) *Design of research activities* (22 points total).

(1) The Secretary considers the extent to which the design of research activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the research activities constitute a coherent, sustained approach to research in the field, including a substantial addition to the state-of-the-art (7 points).

(ii) The extent to which the methodology of each proposed research activity is meritorious, including consideration of the extent to which—

(A) The proposed design includes a comprehensive and informed review of the current literature, demonstrating knowledge of the state-of-the-art (3 points);

(B) Each research hypothesis is theoretically sound and based on current knowledge (3 points);

(C) Each sample population is appropriate and of sufficient size (3 points);

(D) The data collection and measurement techniques are appropriate and likely to be effective (3 points); and

(E) The data analysis methods are appropriate (3 points).

(d) *Design of development activities* (22 points total).

(1) The Secretary considers the extent to which the design of development activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the extent to which the plan for development, clinical testing, and evaluation of new devices and technology is likely to yield significant products or techniques, including consideration of the extent to which—

(A) The proposed project will use the most effective and appropriate technology available in developing the new device or technique (4 points);

(B) The proposed development is based on a sound conceptual model that demonstrates an awareness of the state-of-the-art in technology (4 points);

(C) The new device or technique will be developed and tested in an appropriate environment (4 points);

(D) The new device or technique is likely to be cost-effective and useful (3 points);

(E) The new device or technique has the potential for commercial or private manufacture, marketing, and distribution of the product (4 points); and

(F) The proposed development efforts include adequate quality controls and, as appropriate, repeated testing of products (3 points).

(e) *Design of training activities* (5 points total).

(1) The Secretary considers the extent to which the design of training activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the extent to which the type, extent, and quality of the proposed clinical and laboratory research experience, including the opportunity to participate in advanced-level research, are likely to develop highly qualified researchers (5 points).

(f) *Design of dissemination activities* (7 points total).

(1) The Secretary considers the extent to which the design of dissemination activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the materials to be disseminated are likely to be effective and usable, including consideration of their quality, clarity, variety, and format (5 points).

(ii) The extent to which the information to be disseminated will be accessible to individuals with disabilities (2 points).

(g) *Plan of operation* (5 points total).

(1) The Secretary considers the quality of the plan of operation.

(2) In determining the quality of the plan of operation, the Secretary considers the adequacy of the plan of operation to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, and timelines for accomplishing project tasks (5 points).

(h) *Collaboration* (4 points Total).

(1) The Secretary considers the quality of collaboration.

(2) In determining the quality of collaboration, the Secretary considers the extent to which the applicant's proposed collaboration with one or more agencies, organizations, or institutions is likely to be effective in achieving the relevant proposed activities of the project. (4 points).

(i) *Adequacy and reasonableness of the budget* (4 points total).

(1) The Secretary considers the adequacy and the reasonableness of the proposed budget.

(2) In determining the adequacy and the reasonableness of the proposed budget, the Secretary considers the extent to which the budget for the project, including any subcontracts, is adequately justified to support the proposed project activities (4 points).

(j) *Plan of evaluation* (8 points total).

(1) The Secretary considers the quality of the plan of evaluation.

(2) In determining the quality of the plan of evaluation, the Secretary considers the extent to which the plan of evaluation will be used to improve the performance of the project through the feedback generated by its periodic assessments (8 points).

(k) *Project staff* (8 points total).

(1) The Secretary considers the quality of the project staff.

(2) In determining the quality of the project staff, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (2 points).

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities (3 points).

(ii) The extent to which the commitment of staff time is adequate to accomplish all the proposed activities of the project (3 points).

(l) *Adequacy and accessibility of resources* (5 points total).

(1) The Secretary considers the adequacy and accessibility of the applicant's resources to implement the proposed project.

(2) In determining the adequacy and accessibility of resources, the Secretary considers the following factors:

(i) The extent to which the applicant is committed to provide adequate facilities, equipment, other resources, including administrative support, and laboratories, if appropriate (3 points).

(ii) The extent to which the facilities, equipment, and other resources are appropriately accessible to individuals with disabilities who may use the facilities, equipment, and other resources of the project (2 points).

*Additional Selection Criterion* (10 points).

We use the following additional criterion to evaluate applications under each priority.

Up to 10 points based on the extent to which an application includes effective strategies for employing and advancing in employment qualified individuals with disabilities in projects awarded under these absolute priorities. In determining the effectiveness of those strategies, we will consider the applicant's prior success, as described in the application, in employing and advancing in employment qualified individuals with disabilities. Thus, for purposes of this competitive preference, applicants can be awarded up to a total of 10 points in addition to those awarded under the published selection criteria for these priorities. That is, an applicant meeting this competitive preference could earn a maximum total of 110 points.

*Pre-Application Meeting:* Interested parties are invited to participate in a pre-application meeting to discuss the funding priorities and to receive technical assistance through individual consultation and information about the funding priorities. The pre-application meeting will be held on July 2, 2002 either in person or by conference call at the Department of Education, Office of Special Education and Rehabilitative Services, Switzer Building, room 3065, 330 C Street, SW., Washington, DC between 10 AM and 12 noon. NIDRR staff will also be available from 1:30 PM to 4:00 PM on that same day to provide technical assistance through individual consultation and information about the funding priority. For further information or to make arrangements to attend contact Donna Nangle, Switzer Building, room 3412, 330 C Street, SW., Washington, DC 20202. Telephone (202) 205–5880 or via Internet: *donna.nangle@ed.gov*

If you use a telecommunication device for the deaf (TDD), you may call (202) 205–4475.

**Assistance to Individuals With Disabilities at the Public Meetings**

The meeting site is accessible to individuals with disabilities, and a sign language interpreter will be available. If you will need an auxiliary aid or service other than a sign language interpreter in order to participate in the meeting (e.g., other interpreting service such as oral, cued speech, or tactile interpreter; assistive listening device; or materials in alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request we receive after this date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

**Application Procedures**

The Assistant Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount per year (See 34 CFR 75.104(b)).

The Assistant Secretary strongly recommends the following:

(1) A one-page abstract;

(2) An Application Narrative (i.e., Part III that addresses the selection criteria that will be used by reviewers in evaluating individual proposals) of no more *125 pages for Project applications,* double-spaced (no more than 3 lines per vertical inch) 8″ x 11″ pages (on one side only) with one inch margins (top, bottom, and sides). The application narrative page limit recommendation does not apply to: Part I—the electronically scannable form; Part II—the budget section (including the narrative budget justification); and Part IV—the assurances and certifications; and

(3) A font no smaller than a 12-point font and an average character density no greater than 14 characters per inch.

**Instructions for Transmittal of Applications**

(a) If an applicant wants to apply for a grant, the applicant must—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.133E–7 [Applicant must insert priority name], Washington, DC 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 PM [Washington, DC time] on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA #84.133E–7 [Applicant must insert priority name], room #3671, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(1) A mail receipt that is not dated by the U.S. Postal Service.

**Notes:** (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

**Application Forms and Instructions**

The appendix to this application is divided into four parts. These parts are organized in the same manner that the submitted application should be organized. These parts are as follows:

Part I: Application for Federal Assistance (ED 424 (Rev. 11/30/2004)) and instructions.

Part II: Budget Form—Non-Construction Programs (ED 524) and instructions.

Part III: Application Narrative.

**Additional Materials**

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters: and Drug-Free Work-Place Requirements (ED Form 80–0013).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form 80–0014) and instructions. (NOTE: ED Form GCS–014 is intended for the use of primary participants and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL (if applicable) and instructions; and Disclosure Lobbying Activities Continuation Sheet (Standard Form LLL–A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an *original signature.* No grant may be awarded unless a completed application form has been received.

**FOR FURTHER INFORMATION CONTACT:** Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 3412, Switzer Building, Washington, DC 20202–2645.

Telephone: (202) 205–5880 or via Internet: *Donna.Nangle@ed.gov*

If you use a telecommunications device for the deaf (TDD), may call the TDD number at (202) 205–4475.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

## Electronic Access to This Document

You may review this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

**Program Authority:** 29 U.S.C. 762(g) and 764(b)(3).

Dated: June 13, 2002.

**Robert H. Pasternack,**

*Assistant Secretary for Special Education and, Rehabilitative Services.*

## Appendix

### Instructions for Estimated Public Reporting Burden

According to the Paperwork Reduction Act of 1995, you are not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this collection of information is 1820–0027. Expiration date: 2/28/2003. We estimate the time required to complete this collection of information to average 30 hours per response, including the time to review instructions, search existing data sources, gather the data needed, and complete and review the collection of information. If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202–4651. If you have comments or concerns regarding the status of your submission of this form, write directly to: Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 3412, Switzer Building, Washington, DC 20202–2645.

### Application Forms and Instructions

Applicants are advised to reproduce and complete the application forms in this section. Applicants are required to submit an original and two copies of each application as provided in this section. However, applicants are encouraged to submit an original and seven copies of each application in order to facilitate the peer review process and minimize copying errors.

### Frequent Questions

*1. Can I Get an Extension of the Due Date?*

No. On rare occasions the Department of Education may extend a closing date for all applicants. If that occurs, a notice of the revised due date is published in the **Federal Register**. However, there are no extensions or exceptions to the due date made for individual applicants.

*2. What Should Be Included in the Application?*

The application should include a project narrative, vitae of key personnel, and a budget, as well as the Assurances forms included in this package. Vitae of staff or consultants should include the individual's title and role in the proposed project, and other information that is specifically pertinent to this proposed project. The budgets for both the first year and all subsequent project years should be included.

If collaboration with another organization is involved in the proposed activity, the application should include assurances of participation by the other parties, including written agreements or assurances of cooperation. It is not useful to include general letters of support or endorsement in the application.

If the applicant proposes to use unique tests or other measurement instruments that are not widely known in the field, it would be helpful to include the instrument in the application.

Many applications contain voluminous appendices that are not helpful and in many cases cannot even be mailed to the reviewers. It is generally not helpful to include such things as brochures, general capability statements of collaborating organizations, maps, copies of publications, or descriptions of other projects completed by the applicant.

*3. What Format Should Be Used for the Application?*

NIDRR generally advises applicants that they may organize the application to follow the selection criteria that will be used. The specific review criteria vary according to the specific program, and are contained in this Consolidated Application Package.

*4. May I Submit Applications to More Than One NIDRR Program Competition or More Than One Application to a Program?*

Yes, you may submit applications to any program for which they are responsive to the program requirements. You may submit the same application to as many competitions as you believe appropriate. You may also submit more than one application in any given competition.

*5. What Is the Allowable Indirect Cost Rate?*

The limits on indirect costs vary according to the program and the type of application. An applicant for an RRTC is limited to an indirect rate of 15%. An applicant for a DRRP should limit indirect charges to the organization's approved indirect cost rate. If the organization does not have an approved indirect cost rate, the application should include an estimated actual rate.

*6. Can Profitmaking Businesses Apply for Grants?*

Yes. However, for-profit organizations will not be able to collect a fee or profit on the grant, and in some programs will be required to share in the costs of the project.

*7. Can Individuals Apply for Grants?*

No. Only organizations are eligible to apply for *grants* under NIDRR programs. However, individuals are the only entities eligible to apply for fellowships.

*8. Can NIDRR Staff Advise Me Whether My Project Is of Interest to NIDRR or Likely To Be Funded?*

No. NIDRR staff can advise you of the requirements of the program in which you propose to submit your application. However, staff cannot advise you of whether your subject area or proposed approach is likely to receive approval.

*9. How Do I Assure That My Application Will Be Referred to the Most Appropriate Panel for Review?*

Applicants should be sure that their applications are referred to the correct competition by clearly including the competition title and CFDA number, including alphabetical code, on the Standard Form 424, and including a project title that describes the project.

*10. How Soon After Submitting My Application Can I Find Out If It Will Be Funded?*

The time from closing date to grant award date varies from program to program. Generally speaking, NIDRR endeavors to have awards made within five to six months of the closing date. Unsuccessful applicants generally will be notified within that time frame as well. For the purpose of estimating a project start date, the applicant should estimate approximately six months from the closing date, but no later than the following September 30.

*11. Can I Call NIDRR To Find Out If My Application Is Being Funded?*

No. When NIDRR is able to release information on the status of grant applications, it will notify applicants by letter. The results of the peer review cannot be released except through this formal notification.

*12. If My Application Is Successful, Can I Assume I Will Get the Requested Budget Amount in Subsequent Years?*

No. Funding in subsequent years is subject to availability of funds and project performance.

*13. Will All Approved Applications Be Funded?*

No. It often happens that the peer review panels approve for funding more applications than NIDRR can fund within available resources. Applicants who are approved but not funded are encouraged to consider submitting similar applications in future competitions.

BILLING CODE 4000–01–P

# Application for Federal Education Assistance (ED 424)

U.S. Department of Education
Form Approved
OMB No. 1875-0106
Exp. 11/30/2004

## Applicant Information

1. Name and Address
Legal Name: _____
Address: _____
_____
City _____ State _____ County _____ ZIP Code + 4 _____

Organizational Unit

2. Applicant's D-U-N-S Number ☐☐☐☐☐☐☐☐☐

3. Applicant's T-I-N ☐☐-☐☐☐☐☐☐☐

4. Catalog of Federal Domestic Assistance #: 8 4 ☐☐☐☐
Title: _____
_____

5. Project Director: _____
Address: _____
_____
City _____ State _____ ZIP Code + 4 _____
Tel. #: _____ Fax #: _____
E-Mail Address: _____

6. Novice Applicant ☐ Yes ☐ No

7. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
(If "Yes," attach an explanation.)

8. Type of Applicant (Enter appropriate letter in the box.) ☐

A State
B Local
C Special District
D Indian Tribe
E Individual
F Independent School District
G Public College or University
H Private, Non-Profit College or University
I Non-Profit Organization
J Private, Profit-Making Organization
K Other (Specify): _____

## Application Information

9. Type of Submission:
—PreApplication
☐ Construction
☐ Non-Construction
—Application
☐ Construction
☐ Non-Construction

10. Is application subject to review by Executive Order 12372 process?
☐ Yes (Date made available to the Executive Order 12372 process for review): _____
☐ No (If "No," check appropriate box below.)
☐ Program is not covered by E.O. 12372.
☐ Program has not been selected by State for review.

11. Proposed Project Dates: Start Date: _____ End Date: _____

12. Are any research activities involving human subjects planned at any time during the proposed project period?
☐ Yes (Go to 12a.) ☐ No (Go to item 13.)

12a. Are all the research activities proposed designated to be exempt from the regulations?
☐ Yes (Provide Exemption(s) #): _____
☐ No (Provide Assurance #): _____

13. Descriptive Title of Applicant's Project:

## Estimated Funding

| | | |
|---|---|---|
| 14a. Federal | $ | .00 |
| b. Applicant | $ | .00 |
| c. State | $ | .00 |
| d. Local | $ | .00 |
| e. Other | $ | .00 |
| f. Program Income | $ | .00 |
| g. TOTAL | $ | 0.00 |

## Authorized Representative Information

15. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Authorized Representative (Please type or print name clearly.)

b. Title

c. Tel. #: _____ Fax #: _____

d. E-Mail Address:

e. Signature of Authorized Representative | Date: _____

## Instructions for ED 424

1. Legal Name and Address. Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. D-U-N-S Number. Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: http://www.dnb.com.

3. Tax Identification Number. Enter the taxpayer's identification number as assigned by the Internal Revenue Service.

4. Catalog of Federal Domestic Assistance (CFDA) Number. Enter the CFDA number and title of the program under which assistance is requested. The CFDA number can be found in the federal register notice and the application package.

5. Project Director. Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

6. Novice Applicant. Check "Yes" or "No" only if assistance is being requested under a program that gives special consideration to novice applicants. Otherwise, leave blank.

   Check "Yes" if you meet the requirements for novice applicants specified in the regulations in 34 CFR 75.225 and included on the attached page entitled "Definitions for Form ED 424." By checking "Yes" the applicant certifies that it meets these novice applicant requirements. Check "No" if you do not meet the requirements for novice applicants.

7. Federal Debt Delinquency. Check "Yes" if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check "No."

8. Type of Applicant. Enter the appropriate letter in the box provided.

9. Type of Submission. See "Definitions for Form ED 424" attached.

10. Executive Order 12372. See "Definitions for Form ED 424" attached. Check "Yes" if the application is subject to review by E.O. 12372. Also, please enter the month, day, and four (4) digit year (e.g., 12/12/2001). Otherwise, check "No."

11. Proposed Project Dates. Please enter the month, day, and four (4) digit year (e.g., 12/12/2001).

12. Human Subjects Research. (See I.A. "Definitions" in attached page entitled "Definitions for Form ED 424.")

    If Not Human Subjects Research. Check "No" if research activities involving human subjects are not planned at any time during the proposed project period. The remaining parts of Item 12 are then not applicable.

    If Human Subjects Research. Check "Yes" if research activities involving human subjects are planned at any time during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution. Check "Yes" even if the research is exempt from the regulations for the protection of human subjects. (See I.B. "Exemptions" in attached page entitled "Definitions for Form ED 424.")

12a. If Human Subjects Research is Exempt from the Human Subjects Regulations. Check "Yes" if all the research activities proposed are designated to be exempt from the regulations. Insert the exemption number(s) corresponding to one or more of the six exemption categories listed in I.B. "Exemptions." In addition, follow the instructions in II.A. "Exempt Research Narrative" in the attached page entitled "Definitions for Form ED 424." Insert this narrative immediately following the ED 424 face page.

12a. If Human Subjects Research is Not Exempt from Human Subjects Regulations. Check "No" if some or all of the planned research activities are covered (not exempt). In addition, follow the instructions in II.B. "Nonexempt Research Narrative" in the page entitled "Definitions for Form ED 424." Insert this narrative immediately following the ED 424 face page.

12a. Human Subjects Assurance Number. If the applicant has an approved Federal Wide (FWA) or Multiple Project Assurance (MPA) with the Office for Human Research Protections (OHRP), U.S. Department of Health and Human Services, that covers the specific activity, insert the number in the space provided. If the applicant does not have an approved assurance on file with OHRP, enter "None." In this case, the applicant, by signature on the face page, is declaring that it will comply with 34 CFR 97 and proceed to obtain the human subjects assurance upon request by the designated ED official. If the application is recommended/selected for funding, the designated ED official will request that the applicant obtain the assurance within 30 days after the specific formal request.

    Note about Institutional Review Board Approval. ED does not require certification of Institutional Review Board approval with the application. However, if an application that involves non-exempt human subjects research is recommended/selected for funding, the designated ED official will request that the applicant obtain and send the certification to ED within 30 days after the formal request.

13. Project Title. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

14. Estimated Funding. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 14.

15. Certification. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 15e, please enter the month, day, and four (4) digit year (e.g., 12/12/2001) in the date signed field.

Paperwork Burden Statement. According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1875-0106. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202-4651. If you have comments or concerns regarding the status of your individual submission of this form write directly to: Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

## Definitions for Form ED 424

Novice Applicant (See 34 CFR 75.225). For discretionary grant programs under which the Secretary gives special consideration to novice applications, a novice applicant means any applicant for a grant from ED that—

- Has never received a grant or subgrant under the program from which it seeks funding;
- Has never been a member of a group application, submitted in accordance with 34 CFR 75.127-75.129, that received a grant under the program from which it seeks funding; and
- Has not had an active discretionary grant from the Federal government in the five years before the deadline date for applications under the program. For the purposes of this requirement, a grant is active until the end of the grant's project or funding period, including any extensions of those periods that extend the grantee's authority to obligate funds.

In the case of a group application submitted in accordance with 34 CFR 75.127-75.129, a group includes only parties that meet the requirements listed above.

Type of Submission. "Construction" includes construction of new buildings and acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees and the cost of acquisition of land). "Construction" also includes remodeling to meet standards, remodeling designed to conserve energy, renovation or remodeling to accommodate new technologies, and the purchase of existing historic buildings for conversion to public libraries. For the purposes of this paragraph, the term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them; and such term includes all other items necessary for the functioning of a particular facility as a facility for the provision of library services.

Executive Order 12372. The purpose of Executive Order 12372 is to foster an intergovernmental partnership and strengthen federalism by relying on State and local processes for the coordination and review of proposed Federal financial assistance and direct Federal development. The application notice, as published in the Federal Register, informs the applicant as to whether the program is subject to the requirements of E.O. 12372. In addition, the application package contains information on the State Single Point of Contact. An applicant is still eligible to apply for a grant or grants even if its respective State, Territory, Commonwealth, etc. does not have a State Single Point of Contact. For additional information on E.O. 12372 go to http://www.cfda.gov/public/eo12372.htm.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH

I. Definitions and Exemptions

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Research

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, it is research. Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Human Subject

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." (1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met. [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of exemptions are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. If the subjects are children, exemption 2 applies only to research involving educational tests and observations of public behavior when the investigator(s) do not participate in the

activities being observed. Exemption 2 does not apply if children are surveyed or interviewed or if the research involves observation of public behavior and the investigator(s) participate in the activities being observed. [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S. Department of Agriculture.

## II. Instructions for Exempt and Nonexempt Human Subjects Research Narratives

If the applicant marked "Yes" for Item 12 on the ED 424, the applicant must provide a human subjects "exempt research" or "nonexempt research" narrative and insert it immediately following the ED 424 face page.

### A. Exempt Research Narrative.

If you marked "Yes" for item 12a. and designated exemption numbers(s), provide the "exempt research" narrative. The narrative must contain sufficient information about the involvement of human subjects in the proposed research to allow a determination by ED that the designated exemption(s) are appropriate. The narrative must be succinct.

### B. Nonexempt Research Narrative.

If you marked "No" for item 12a. you must provide the "nonexempt research" narrative. The narrative must address the following seven points. Although no specific page limitation applies to this section of the application, be succinct.

(1) Human Subjects Involvement and Characteristics: Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable

(2) Sources of Materials: Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Recruitment and Informed Consent: Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Potential Risks: Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Protection Against Risk: Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Importance of the Knowledge to be Gained: Discuss the importance of the knowledge gained or to be gained as a result of the proposed research. Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

(7) Collaborating Site(s): If research involving human subjects will take place at collaborating site(s) or other performance site(s), name the sites and briefly describe their involvement or role in the research.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff, Office of the Chief Financial Officer, U.S. Department of Education, Washington, D.C. 20202-4248, telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://www.ed.gov/offices/OCFO/humansub.html

**U.S. DEPARTMENT OF EDUCATION**

**BUDGET INFORMATION**

**NON-CONSTRUCTION PROGRAMS**

OMB Control Number: 1890-0004

Expiration Date: 02/28/2003

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

**SECTION A - BUDGET SUMMARY**
**U.S. DEPARTMENT OF EDUCATION FUNDS**

| Budget Categories | Project Year 1 (a) | Project Year 2 (b) | Project Year 3 (c) | Project Year 4 (d) | Project Year 5 (e) | Total (f) |
|---|---|---|---|---|---|---|
| 1. Personnel | | | | | | 0 |
| 2. Fringe Benefits | | | | | | 0 |
| 3. Travel | | | | | | 0 |
| 4. Equipment | | | | | | 0 |
| 5. Supplies | | | | | | 0 |
| 6. Contractual | | | | | | 0 |
| 7. Construction | | | | | | 0 |
| 8. Other | | | | | | 0 |
| 9. Total Direct Costs (lines 1-8) | 0 | 0 | 0 | 0 | 0 | 0 |
| 10. Indirect Costs | | | | | | 0 |
| 11. Training Stipends | | | | | | 0 |
| 12. Total Costs (lines 9-11) | 0 | 0 | 0 | 0 | 0 | 0 |

ED Form No. 524

| Name of Institution/Organization | Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form. |
|---|---|

**SECTION B - BUDGET SUMMARY**
**NON-FEDERAL FUNDS**

| Budget Categories | Project Year 1 (a) | Project Year 2 (b) | Project Year 3 (c) | Project Year 4 (d) | Project Year 5 (e) | Total (f) |
|---|---|---|---|---|---|---|
| 1. Personnel | | | | | | 0 |
| 2. Fringe Benefits | | | | | | 0 |
| 3. Travel | | | | | | 0 |
| 4. Equipment | | | | | | 0 |
| 5. Supplies | | | | | | 0 |
| 6. Contractual | | | | | | 0 |
| 7. Construction | | | | | | 0 |
| 8. Other | | | | | | 0 |
| 9. Total Direct Costs (lines 1-8) | 0 | 0 | 0 | 0 | 0 | 0 |
| 10. Indirect Costs | | | | | | 0 |
| 11. Training Stipends | | | | | | 0 |
| 12. Total Costs (lines 9-11) | 0 | 0 | 0 | 0 | 0 | 0 |

**SECTION C - OTHER BUDGET INFORMATION** (see instructions)

ED Form No. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

# INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

OMB Approval No. 0348-0040

## ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

**NOTE:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

| SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL | TITLE |
|---|---|
| APPLICANT ORGANIZATION | DATE SUBMITTED |

**Standard Form 424B (Rev. 7-97) Back**

**CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS**

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. **LOBBYING**

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. **DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. **DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

**DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

| NAME OF APPLICANT | PR/AWARD NUMBER AND / OR PROJECT NAME |
|---|---|
| PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE | |
| SIGNATURE | DATE |

ED 80-0013 12/98

## Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion — Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

**Instructions for Certification**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification**

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

| NAME OF APPLICANT | PR/AWARD NUMBER AND/OR PROJECT NAME |
|---|---|
| PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE | |
| SIGNATURE | DATE |

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

## DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

| 1. Type of Federal Action: | 2. Status of Federal Action: | 3. Report Type: |
|---|---|---|
| ☐ a. contract<br>b. grant<br>c. cooperative agreement<br>d. loan<br>e. loan guarantee<br>f. loan insurance | ☐ a. bid/offer/application<br>b. initial award<br>c. post-award | ☐ a. initial filing<br>b. material change<br>**For Material Change Only:**<br>year _____ quarter _____<br>date of last report _____ |

| 4. Name and Address of Reporting Entity: | 5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: |
|---|---|
| ☐ Prime ☐ Subawardee<br>Tier _____, *if known*:<br><br>**Congressional District**, *if known*: | <br><br><br>**Congressional District**, *if known*: |
| **6. Federal Department/Agency:** | **7. Federal Program Name/Description:**<br><br>CFDA Number, *if applicable*: _____ |
| **8. Federal Action Number,** *if known*: | **9. Award Amount,** *if known*:<br>$ |
| **10. a. Name and Address of Lobbying Registrant**<br>(*if individual, last name, first name, MI*): | **b. Individuals Performing Services** (*including address if different from No. 10a*)<br>(*last name, first name, MI*): |

**11.** Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ Date: _____

**Federal Use Only:**

Authorized for Local Reproduction
Standard Form LLL (Rev. 7-97)

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.



[FR Doc. 02–15394 Filed 6–18–02; 8:45 am]

BILLING CODE 4000–01–C

Federal Register

Wednesday,
June 19, 2002

Part V

# Department of Education

**Office of Special Education and Rehabilitative Services; Grant Applications Under Part D, Subpart 2 of the Individuals With Disabilities Education Act, Research and Innovation To Improve Services and Results for Children With Disabilities; Notice**

## DEPARTMENT OF EDUCATION

### Office of Special Education and Rehabilitative Services; Grant Applications Under Part D, Subpart 2 of the Individuals With Disabilities Education Act, Research and Innovation To Improve Services and Results for Children With Disabilities

**AGENCY:** Department of Education.

**ACTION:** Notice inviting applications for new awards for fiscal year (FY) 2002.

**SUMMARY:** This notice announces closing dates, applicable priorities, and other information regarding the transmittal of applications for two priorities in FY 2002 under the Special Education—Research and Innovation to Improve Services and Results for Children with Disabilities Program. This program is authorized by the Individuals with Disabilities Education Act (IDEA), as amended.

Please note that significant dates for the availability and submission of applications, as well as important fiscal information, are listed in a table at the end of this notice.

**Waiver of Rulemaking**

It is generally our practice to offer interested parties the opportunity to comment on proposed priorities. However, section 661(e)(2) of IDEA makes the rulemaking procedures in the Administrative Procedure Act (5 U.S.C. 553) inapplicable to the priorities in this notice.

**General Requirements**

(a) The projects funded under this notice must make positive efforts to employ and advance in employment in project activities qualified individuals with disabilities. (see section 606 of IDEA).

(b) Applicants and grant recipients funded under this notice must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the projects (see section 661(f)(1)(A) of IDEA).

(c) The projects funded under these priorities must budget for a two-day Project Directors' meeting in Washington, DC during each year of the project.

(d) If a project maintains a Web site, it must include relevant information and documents in an accessible form.

(e) In a single application an applicant must address only one target area under Absolute Priority 1 or one focus area under Absolute Priority 2 in this notice. Under Absolute Priority 1, there are three broad focus areas with specific target areas under each focus area. Under Absolute Priority 2, there are four focus areas.

*Page Limit:* Part III of each application submitted under a priority in this notice, the application narrative, is where an applicant addresses the selection criteria that are used by reviewers in evaluating the application. You must limit Part III to the equivalent of no more than the number of pages listed under each applicable priority and in the table at the end of this notice, using the following standards:

- A ''page'' is 8.5″ × 11″ (on one side only) with one-inch margins (top, bottom, and sides).
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography or references, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject your application if—

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

**Instructions for Transmittal of Applications**

Some of the procedures in these instructions for transmitting applications differ from those in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.102). Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, these amendments make procedural changes only and do not establish new substantive policy. Therefore, under 5 U.S.C. 553(b)(A), the Secretary has determined that proposed rulemaking is not required.

*Pilot Project for Electronic Submission of Applications*

In FY 2002, the U.S. Department of Education is continuing to expand its pilot project of electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. Special Education—Research and Innovation to Improve Services and Results for Children with Disabilities is one of the programs included in the pilot project. If you are an applicant under this program, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). We request your participation in this pilot project. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

- Your participation is voluntary.
- You will not receive any additional point value or penalty because you submit a grant application in electronic or paper format.
- You can submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- Within three working days of submitting your electronic application, fax a signed copy of the Application for Federal Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from the e-APPLICATION system.
2. Make sure that the institution's Authorizing Representative signs this form.
3. Before faxing this form, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).
4. Place the PR/Award number in the upper right hand corner of ED 424.
5. Fax ED 424 to the Application Control Center at (202) 260–1349.

- We may request that you give us original signatures on all other forms at a later date.

You may access the electronic grant application for the program at: *http://e-grants.ed.gov.*

We have included additional information about the e-APPLICATION pilot project (see Parity Guidelines between Paper and Electronic Applications) in the application package.

**Research and Innovation To Improve Services and Results for Children With Disabilities [CFDA Number 84.324]**

*Purpose of Program:* To produce, and advance the use of, knowledge to

improve educational and early intervention results for infants, toddlers, and children with disabilities.

**Eligible Applicants**

Under Absolute Priority 1 and under focus areas 1 and 2 of Absolute Priority 2, eligible applicants are State educational agencies (SEAs), local educational agencies (LEAs), institutions of higher education (IHEs), other public agencies, private nonprofit organizations, outlying areas, freely associated States, and Indian tribes or tribal organizations.

For focus area 3 under Absolute Priority 2, eligible applicants are limited to LEAs, and LEAs in consortia with one or more other LEAs, IHEs, other public agencies, or other organizations. However, in the event that the LEA forms a consortium with other organizations, the LEA must be the applicant and act in a manner consistent with 34 CFR 75.129.

For focus area 4 under Absolute Priority 2, eligible applicants are limited to SEAs, and SEAs in consortia with one or more LEA, IHE, or private nonprofit organizations. However, an LEA or SEA must be the applicant and act in a manner consistent with 34 CFR 75.129.

**Note:** LEAs are not eligible unless in consortia with SEAs.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, 86, 97, 98, and 99; and (b) The selection criteria for the priorities under this program; these criteria are taken from the EDGAR general selection criteria. The specific selection criteria for each priority are included in the application package for the applicable competition.

**Note:** The regulations in 34 CFR part 86 apply to institutions of higher education only.

**Priority**

Under 34 CFR 75.105(c)(3), we consider only applications that meet one of the following priorities:

*Absolute Priority 1—Directed Research Projects (84.324D)*

This priority supports projects that (1) advance and improve the knowledge base and (2) improve the practice of professionals, parents, and others providing early intervention, special education, and related services. This includes professionals who work with children with disabilities in regular educational environments and natural environments.

Under this priority, projects must support innovation, development, exchange of information, and the transfer of research into knowledge and practice. Projects must (1) use exceedingly rigorous quantitative or qualitative research and evaluation methods and (2) communicate appropriately with target audiences.

*Maximum Award:* We will reject any application that proposes a budget exceeding $180,000 for a single budget period of 12 months.

*Page Limit:* The maximum page limit under this priority is 50 double-spaced pages. Standards for the maximum page limit are described after the ''GENERAL REQUIREMENTS'' section of this notice.

Also, under this priority, we will fund projects under specific target areas within the broad focus areas of: (A) Access to Learning; (B) Accountability and Reform; and (C) Social and Emotional Development and Intervention. The specific target areas under the three broad focus areas are as follows:

**Focus A—Access to Learning**

*Target Area (1)—Access to the General Education Curriculum for Students with Significant Cognitive Disabilities*

Background

This target area supports research to increase our understanding of access to the general education curriculum for students with significant cognitive disabilities. A project must investigate what access to the general education curriculum entails and how to provide that access in the least restrictive environment (LRE).

The barriers and challenges concerning access to the general education curriculum for students with significant cognitive disabilities are multifaceted and involve the following:

(A) Professional Development. IHEs are not adequately preparing or graduating school personnel to work with students with significant cognitive disabilities in regular school settings. In addition, recruitment and retention of qualified personnel is a major concern, and attrition is a big drain on resources.

(B) General Education Curriculum. Some districts have not aligned their curriculum and instruction to learning standards for grades K–12. Many special education teachers do not have sufficient content background to be active partners in the curriculum. In addition, there is a pervasive lack of family and community involvement in curriculum development. Differentiated instruction is often nonexistent because school personnel often do not know how to identify and modify the curriculum and instruction to produce positive student outcomes by meeting the needs of diverse learners. This is especially true for students with significant cognitive disabilities; and

(C) LRE Issues. There are major barriers in providing access to the general education curriculum including student participation in statewide assessments when students are in separate sites. Including students with disabilities in public accountability systems and high stakes assessments has been described as a major disincentive for (i) including students with significant cognitive disabilities in inclusive schools and (ii) providing them access to the general education curriculum.

Universal design for learning (UDL) holds great promise for teaching, learning and assessment, and new media technologies to respond to differences among individual learners. For more information on UDL, please visit the following Web sites:

- Center for Applied Special Technology's (CAST) *http://www.cast.org/udl/*
- Universal Design for Learning from ERIC/OSEP: *http://www.cec.sped.org/osep/ud-sec3.html*
- A Curriculum Every Student Can Use: Design Principles for Student Access at: *http://www.cec.sped.org/osep/udesign.html*

Target Area

A project funded under this target area must—

(a) Describe and define access to the general education curriculum for students with significant cognitive disabilities, including student participation, student progress, and location of service;

(b) Analyze and address how to meet the barriers and challenges related to professional development, the general education curriculum, and LRE issues, such as the challenges identified in the background section for this target area;

(c) Create partnerships that include both an SEA and an LEA to design, implement, evaluate, and disseminate high quality access to the general education curriculum in inclusive school environments; and

(d) Employ these six key features in designing, implementing, evaluating, and disseminating access:

- Family, community and school partnerships.
- Performance standards for students.
- Curricula and established accountability systems that are aligned with State initiatives.
- School accountability for all students.
- Ongoing professional development systems.

• Universal design for learning; and

(e) Increase our understanding of access to the general education curriculum for students with significant cognitive disabilities by (1) investigating what access to the general education curriculum entails, and how to provide it in the LRE, and (2) documenting student results using quantitative and qualitative data.

*Target Area (2)—Instructional Interventions and Results for Children With Disabilities*

Background

The President's No Child Left Behind (NCLB) initiative is based on four principles: accountability for results, use of scientifically based methods, expansion of local flexibility, and empowerment of parents and students. Successful implementation of IDEA requires the consistent application of these principles.

With over 70 percent of children with disabilities spending over 40 percent of their school day in regular classrooms (U.S. Department of Education, 2000), both regular and special education teachers need relevant and accessible information about how students with disabilities learn curriculum and learn about accommodations, supports, and resources.

Research is needed to describe, test, and validate instructional practices that have the potential for generating positive results for children with disabilities as they strive to meet State and local standards and performance goals set for all students, especially in high schools.

Core courses such as Algebra I, foreign languages, and science are considered ''gateway courses,'' which are critical to students who plan to earn a high school diploma and pursue transition goals that include postsecondary education. A better understanding of pedagogy, the use of universal design, and the learning needs of students with disabilities in certain core courses: (1) Would increase the rate of students with disabilities who graduate with a high school diploma; and (2) would improve the learning opportunities for all students who have special learning needs.

Target Area

A project supported under this target area must investigate issues related to providing instruction in the general education curriculum for children with disabilities in high school level courses (those earning Carnegie Units toward high school graduation with a diploma) in Algebra I, foreign language, or science. These issues must include, but are not limited to, the following:

(a) The relationship of universally designed instruction and curriculum to results for students with disabilities in Algebra I, foreign language, or science, including measures linked to passing high school exams and obtaining a diploma.

(b) Contextual variables that influence access to the general education curriculum for students with disabilities, including, for example, classroom design; the relative roles of regular educators and special educators; groupings or management strategies, curricular design, delivery, or materials; and family and staff interaction.

(c) Universally designed instructional and curricular approaches that ensure that students with disabilities have access to the general education curriculum in these core courses.

*Target Area (3)—Pre-Literacy and Early Literacy for Infants, Toddlers, and Other Young Children with Visual Impairments Including Blindness*

Background

Current research documents the link between the development of pre-literacy and early literacy skills for infants, toddlers, and other young children and subsequent reading and academic success. The development of pre-literacy and early literacy skills for young children with visual impairments, including blindness, poses additional challenges for families and professionals.

Target Area

A project funded under this target area must investigate issues and promising practices in the development of pre-literacy and early literacy skills for young children with visual impairments. The project must address ages birth to 3, 3 through 6 years, or the full age range of birth through 6 years. The project must address, but is not limited to, the following issues:

(1) Assessment of the needs of young children with visual impairments as those needs relate to the development of pre-literacy and early literacy skills.

(2) Use of new or innovative intervention strategies to promote pre-literacy and early literacy skills for all young children, including those who have visual impairments.

(3) Integration of intervention strategies in communication and other developmental domains with pre-literacy and early literacy intervention methods for infants, toddlers, and preschoolers with visual impairments.

(4) For the development of pre-literacy and early literacy skills, access to and use of new and developing technologies with young children with visual impairments.

**Focus B—Accountability and Reform**

*Target Area (1)—Universal Design of Assessments*

Background

This target area supports research on universal design of assessments for use with students with disabilities. The term ''universally designed assessments'' refers to large-scale assessments that are designed to be accessible and valid for the widest possible range of students. Federal laws call for the participation of students with disabilities in State and districtwide assessments, with accommodations and alternate assessments provided as needed. Universal design of assessments will not eliminate the need for accommodations or alternate assessments. However, it will expand the range of students who can participate in general assessments, reduce the need for accommodations, and minimize problems of comparability and validity of scores if accommodations are used.

Universal design has implications for all phases of test development, including definition of constructs, formulation of test specifications, development of items, test tryouts and analysis, test revision, and item bias review.

Information on universal design of assessments is available on the Web site of the National Center on Educational Outcomes: *http://www.coled.umn.edu/nceo/*

Target Areas

A project funded under this target area must conduct research on one or both of the following:

(1) Development and testing of techniques for universal design of assessments as applied to students with disabilities.

(2) Demonstration of the impact of universal design of assessments on the participation and performance of students with disabilities and on the validity of their scores.

**Target Area (2)—Charter Schools and Students With Disabilities**

Background

This target area supports research specific to students with disabilities in charter schools. A study of data collected in 1997 and 1998 indicates that students with disabilities are served in charter schools, but the types of disabilities and the services provided

vary considerably by specific school and curricular focus. The study is available at the following Web site: *http://www.uscharterschools.org/pub/uscs__docs/fr/sped__natl__study.htm*

National surveys of charter schools supported by the U.S. Department of Education and an evaluation of the U.S. Public Charter Schools Programs indicate that (1) students with disabilities are well represented in charter schools, and (2) even charter schools not specifically designed for students with special needs attract a large proportion of students with disabilities. These surveys and assessments are available at the following Web sites: *http://www.ed.gov/pubs/charter4thyear/ http://www.ed.gov/offices/OUS/PES/chartschools/index.html*

Additionally, small scale research by the Department's Office of Special Education Programs (OSEP) and recently completed by the National Association of State Directors of Special Education reinforces the important role of State charter school policies and State special education policies in the ability of charter schools to meet their obligations under IDEA. This research is available at the following Web site: *http://www.nasdse.org/project__search__doc2.pdf*

Target Area

A project supported under this target area must investigate one or more of the following issues related to charter schools and students with disabilities:

(1) How and why students with disabilities and their parents choose charter schools.

(2) How and why charter schools attract students with disabilities to their schools.

(3) Policies and practices used by charter schools to determine the initial and continued eligibility of students for special education and related services.

(4)(i) The relationship among State charter school legislation, authorizing entities and procedures, appeal procedures, special education rules or regulations, and other State level policies; and (ii) how these policies affect the access to special education and related services and delivery of services to students with disabilities in charter schools.

(5) Differences and similarities between newly established or converted charter schools and longer-established charter schools in terms of access and services to students with disabilities.

(6) The role of special education and related services in the different phases of developing and operating charter schools (i.e., authorization, start-up, oversight and supervision, review and renewal).

Because data on students with disabilities in the wide variety of charter schools is needed, we encourage proposals for projects that combine case study and survey approaches.

*Target Area (3) ''—Accountability, Reform, and Results for Children With Disabilities*

Background

IDEA requires a strong emphasis on public accountability for improved results for students with disabilities. Given that achievement levels and graduation rates of students with disabilities in high schools are at levels significantly lower than for their nondisabled peers, it is critical that we study schoolwide approaches to the effective education of students with disabilities in high schools, as well as those effective practices designed to meet the individual needs of students with disabilities.

Target Area

A project funded under this target area must—

(1) Identify, describe, and validate schoolwide approaches that involve significant collaboration, such as those approaches used in nationally recognized high schools that consistently support and produce good results for students with disabilities; and

(b) Address the following issues:

(1) How special education services are delivered in high-performing high schools.

(2) How students with disabilities are attaining their goals in the general education curriculum in high performing high schools.

(3) How special education and regular education programs have coordinated the educational services for students with disabilities.

(4) How these three issues and other issues are related to positive results for students with disabilities.

The Assistant Secretary encourages applications that emphasize accountability for results, expand local flexibility, and increase empowerment of parents and students.

**Focus (C)—Social and Emotional Development and Intervention**

*Target Area (1)—Research on Early Childhood Mental Health*

Background

The elements of early intervention practice that support the social and emotional development of young children with or at risk of disabilities, are as important as the elements that support linguistic and cognitive development.

Target Area

A project funded under this target area must—

(a) Conduct research to document effective practices for identifying and addressing the affective and behavioral problems of young children with or at risk of disabilities.

(b) Focus on the mental health of infants and toddlers (0–2 years old), or preschoolers (3–5 years old) or both, who are receiving services under the part C or part B programs of IDEA.

(c) Describe steps the applicant will take to ensure that it will disseminate findings from its research to research and training centers (RTCs) funded by the Office of Special Education and Rehabilitative Services. These centers include the two children's mental health rehabilitative research and training centers (RRTCs) funded by the National Institute on Disability and Rehabilitation Research (NIDRR) and the RTCs funded by OSEP on the ''Development of Infants, Toddlers, and Preschoolers with or At Risk of Disabilities'' and ''Evidence-Based Practice: Young Children with Challenging Behavior.''

*Target Area (2)—Assessing Self-Determination Skills*

Background

Self-determination has been identified as an important outcome of the educational process for children with disabilities. Research to date has not addressed: (1) The critical components of the cultural issues involved with providing self-determination skills to children with disabilities from culturally and linguistically diverse backgrounds; (2) the self-determination needs of children in elementary schools; and (3) the development of measures for self-determination skills.

Target Area

A project funded under this target area must pursue research that focuses on one of the following issues:

(a) Cultural variables that influence the development and implementation of self-determination skills in children with disabilities, including children from culturally and linguistically diverse backgrounds. These may include (1) variables that promote the development of effective self-determination skills; and (2) the role of families from culturally and linguistically diverse backgrounds.

(b) The development of benchmarks, policies, and procedures to monitor and report the progress of students in self-determination skills. These skills may include, for example, leadership, problem solving, goal setting and self advocacy.

(c) The identification of: (1) Developmentally appropriate self-determination skills for young children with disabilities; and (2) effective teaching strategies and curricula directed to elementary-school-aged students. These teaching strategies and curricula should be relevant to families, program implementers, and policymakers at the community, district, building, and classroom levels. The strategies and curricula may also include information on how to promote the importance of early self-determination for the later success of children with disabilities.

*Target Area (3)—Implementation of Schoolwide Positive Behavior Supports in High School*

Background

Since the inclusion of the term positive behavior support in the reauthorization of IDEA in 1997, much attention has been directed at implementing schoolwide systems of positive behavior support. The concept has come to mean a broad range of systemic and individualized strategies for achieving important social and learning outcomes while preventing challenging behavior of all students. This systemic emphasis is based on a three-tier prevention model that provides: primary interventions—interventions for all students; secondary interventions—either targeted interventions or interventions for targeted small groups of children; and a third level of interventions—very intensive, individualized interventions for a small number of children.

Throughout the past four years, schoolwide positive behavior support models, developed with OSEP support, have been implemented at the school, district, and State levels and yielded positive results among elementary and middle school students. Success in high schools has been less evident. Thus, additional research is needed to determine (1) the barriers and challenges of implementing schoolwide positive behavior support in high schools, and (2) the critical components needed to duplicate success at this level.

Target Area

A project supported under this target area must address the following:

(a) The critical features that make high schools different from middle schools.

(b) The strategies and systemic components needed to implement the three-tier schoolwide approach to positive behavior support at the high school level.

(c) The critical features needed to effectively implement each of the three tiers.

(d) The relationship between schoolwide positive behavior support and academic achievement.

The Secretary encourages projects to address (1) the types and patterns of behavioral problems exhibited in high schools; and (2) the use of alternative settings and more restrictive placements in high schools to address these problems.

*Absolute Priority 2—Model Demonstration Projects for Children with Disabilities (84.324T)*

This priority supports model demonstration projects that develop, implement, evaluate, and disseminate new or improved approaches for providing early intervention, special education, and related services. These are services provided to children with disabilities, ages birth through 21.

Projects supported under this priority are expected to be major contributors of models or components of models for service providers and for outreach projects funded under IDEA.

**Requirements for all Model Demonstration Projects**

(a) A model demonstration project funded under this priority must—

(1) Use exceedingly rigorous quantitative or qualitative evaluation methods and data;

(2) Evaluate the model by using multiple measures of results to determine the effectiveness of the model and its components or strategies;

(3) Produce detailed procedures and materials to enable others to replicate the model; and

(4) Communicate appropriately with target audiences through means such as special education technical assistance providers and disseminators, professional journals and other publications, conference presentations, or a Web site.

(b) Federal financial participation for a project funded under this priority will not exceed 90 percent of the total annual costs of the project (see section 661(f)(2)(A) of IDEA).

(c) In addition to the annual two-day Project Directors' meeting in Washington, DC (as specified in paragraph (c) of the GENERAL REQUIREMENTS section of this notice), a project must budget for another annual meeting in Washington, DC to collaborate with the Federal project officer and the other projects funded under this priority, to share information, and to discuss issues related to development of a model, evaluation, and project implementation.

*Maximum Award for All Model Demonstration Projects:* We will reject any application that proposes a budget exceeding $180,000 (exclusive of any matching funds) for a single budget period of 12 months.

*Page Limits for All Model Demonstration Projects:* The maximum page limit for this priority is 50 double-spaced pages. Standards for the maximum page limit are described after the GENERAL REQUIREMENTS section of this notice.

Under this absolute priority, we will fund projects in the following focus areas only:

**Focus Area 1—Model Demonstration Projects To Support Quality Educational and Transition and Aftercare Programs in the Justice System for Youth with Disabilities**

Background

This focus area supports model projects that demonstrate new or innovative models for youth in the justice system.

Ensuring that youth acquire educational skills is one of the most effective approaches to reducing recidivism. Yet, students in jails, detention centers, and short-term facilities receive considerably poorer instruction and less time in instruction.

Transition and aftercare services are the most neglected components in dealing with this group of children. The primary problem stems from the lack of communication between multiple service agencies and an overall lack of community support for delinquent youths. This critical transition should involve a seamless system of care, identifying the needs and services to be provided by multiple agencies if needed to ensure successful reintegration and after care support.

Focus Area

A model funded under this focus area must address a comprehensive coordinated system to facilitate the successful reintegration of youth from a facility back into his or her home school.

A model must address one of the following: (1) The provision of quality special education services within facilities; or (2) the provision of quality

transition and aftercare services to support the reintegration of youth with disabilities into their home schools and communities.

A model addressing the provision of special education services must address, but is not limited to, one or more of the following:

(a) The requirements of IDEA as they apply to youth in facilities, including: least restrictive environment, access to the general education curriculum, and implementation of Individualized Education Programs (IEPs).

(b) Immediate screening of each youth's present levels of performance and services needed while in the facility.

(c) Efficient transfer of IEP records.

(d) Coordination with each youth's home school on the current IEP and processes for ensuring the transfer to the home school of credit, and acceptance of work completed by the youth within the facility.

(e) An identification process, if needed, for a youth with disabilities who has previously not been identified before entering the facility.

(f) Provision of needed remediation and instruction in basic skills that has been shown to be effective by scientifically based research, especially in reading.

A model addressing transition and aftercare must address, but is not limited to, one or more of the following:

(a) The requirements of IDEA as they apply to youth in facilities, including: least restrictive environment, access to the general education curriculum, and implementation of IEPs.

(b) Efficient transfer of each youth's IEP records and educational performance and progress while the youth is in in the facility.

(c) Coordination with each youth's home school on the current IEP and processes for ensuring the transfer to the home school for credit, and acceptance of work completed by the youth within the facility.

(d) Mentoring programs and supportive transition networks to ensure the successful reintegration of the youth into the home school and community.

(e) Parental involvement.

OSEP intends to fund an equal number of models in (1) the provision of special education services and (2) the provision of transition and aftercare.

**Focus Area 2—Strengthening Childcare Infrastructures for Infants, Toddlers, and Preschoolers With Disabilities From Underserved Families and Communities**

Background

This focus area supports projects that demonstrate new or innovative childcare models that address the developmental needs of infants, toddlers, and preschoolers with disabilities from underserved families and communities.

Focus Area

A project funded under this focus must—

(a) Identify and support children with disabilities from underserved families and communities.

(b) Address the special and individualized intervention needs of young children without removing the children from inclusive settings and typical experiences.

(c) In identifying and addressing challenges that contribute to the uneven provision of services, incorporate multiple formal and informal service delivery systems that have evolved in a community over the years.

(d) Address, under this focus area, one or more of the following issues:

(1) The lack of available mental health services for children under age 6.

(2) Adverse home or community conditions.

(3) Cultural differences between service providers and families.

(4) Differences between what childcare programs offer and what families of young children with disabilities or at-risk for disabilities need or want.

(5) Children living with mentally ill family members.

(6) Children with complex medical conditions.

(7) Children in families dealing with poverty, substance abuse, or violence;

(e) Measure the effectiveness of models with regard to children's development by assessing multiple influences longitudinally in reporting on the impact of the variables of community, family, and individual intervention on child development. Measures of a child's competence must include observation of a child's underlying functioning over time with regard to the interventions the child has received.

(f) Examine whether the proposed interventions were implemented as planned, whether the participants for whom the program is designed actually participated, and how much the program costs.

A project funded under this focus area must schedule (1) one trip annually to Washington, DC (as specified in paragraph (c) of the GENERAL REQUIREMENTS section of this notice), (2) one trip annually to Washington, DC (as specified in the Requirements for All Demonstration Projects section of this priority), and (3) an additional meeting, to take place at the beginning of year one, to identify collaborations across projects under this focus area that can result in increased sample sizes and planned variations of critical variables, interventions, and outcomes.

**Focus Area 3—Agency Participation in Transition**

Background

This focus area supports model projects that demonstrate (1) new or improved approaches to participation in transition by multiple systems and (2) successful interagency collaboration in planning transition from school to work, postsecondary education, or other post-school activities.

Focus Area

A project funded under this focus area must—

(a) Involve collaboration between multiple systems, such as education; vocational rehabilitation; workforce development; employer organizations; community networks; health, youth, and adult service agencies; and other relevant agencies;

(b) Improve transitions among the types of systems referred to in paragraph (a) and eliminate service disruptions, including waiting lists for students exiting school; and

(c) Include student IEPs that are based on each student's interests, preferences, and needs and include, as appropriate, a statement of interagency responsibilities and any needed linkages. The linkages must include, as appropriate, postschool environments such as postsecondary schools, employment, adult-service programs, and local One-Stop Career Centers created under the Workforce Investment Act.

(d) Schedule (1) one trip annually to Washington, DC (as specified in paragraph (c) of the GENERAL REQUIREMENTS section of this notice), (2) one trip annually to Washington, DC (as specified in the Requirements for All Demonstration Projects section of this priority), and (3) an additional meeting to take place by the end of the first month of the project.

**Focus Area (4)—Assessments and Accountability**

Background

This focus area supports State educational agencies (SEAs) and local education agencies (LEAs) (in consortia with SEAs) in developing and evaluating new or improved models for the meaningful and effective participation of students with disabilities in large-scale assessments and accountability systems.

Focus Area

A project funded under this focus area must develop and evaluate a model that includes all students with disabilities—those who participate in general large-scale assessments (with and without accommodations) and those who participate in alternative assessments.

A project funded under this focus area must also develop and evaluate a model with the following characteristics:

(a) The model must fully include students with disabilities, and those students must have the same impact as other students in State and local systems of educational accountability.

(b) Public reports on assessments and accountability must fully and clearly present data on the participation and performance of students with disabilities, aggregated with the data of all other students and disaggregated for students with disabilities.

(c) In its decisions regarding corrective actions, resource allocation, improvement plans, and similar processes, the SEA or LEA must give assessment data of students with disabilities consideration equal to the consideration it gives data of all other students.

(d) An SEA or LEA must provide IEP teams with training and support in making decisions about how students with disabilities will participate in assessments.

(e) The model must provide for ongoing evaluation to determine if undesired patterns of participation or undesired consequences are occurring. This evaluation may include, but is not limited to: determining that all students with disabilities are, in fact, participating in assessments, reports and accountability; tracking the use of ''nonallowed'' accommodations that limit how performance data can be used; studying the characteristics of students who participate in alternate assessments; and analyzing retention and drop-out rates to detect undesired trends.

(f) The model must provide for continued improvement of the assessment and accountability system over time by means of monitoring, evaluation, systematic training, dissemination, and similar processes.

*For Applications Contact:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, Maryland 20794–1398. *Telephone (toll free):* 1–877–4ED-Pubs (1–877–433–7827). FAX: 301–470–1244. If you use a telecommunications device for the deaf (TDD) you may call (toll free) 1–877–576–7734.

You may also contact Ed Pubs via its Web site *http://www.ed.gov/pubs/edpubs.html*

Or you may contact Ed Pubs at its e-mail address: *edpubs@inet.ed.gov*

If you request an application from ED Pubs, be sure to identify the competition by the appropriate CFDA number.

**FOR FURTHER INFORMATION CONTACT:** Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 260–9182.

If you use a TDD you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact persons listed under **FOR FURTHER INFORMATION CONTACT**.

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting the Department as listed above. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

## INDIVIDUALS WITH DISABILITIES EDUCATION ACT

[APPLICATION NOTICE FOR FISCAL YEAR 2002]

| CFDA No. and name | Applications available | Application deadline date | Estimated range of awards | Estimated average size of awards | Maximum award (per year)* | Project period | Estimated number of awards | Page limit** |
|---|---|---|---|---|---|---|---|---|
| 84.324D Directed Research Projects. | 06/19/02 | 07/22/02 | $152,000–180,000 | $179,000 | $180,000 | Up to 36 ..... | ..... | 50 |
| Broad Focus Area A—Access to Learning. | ..... | ..... | ..... | ..... | ..... | ..... | 10 | |
| Broad Focus Area B—Accountability and Reform. | ..... | ..... | ..... | ..... | ..... | ..... | 8 | |
| Broad Focus Area C—Social and Emotional. | ..... | ..... | ..... | ..... | ..... | ..... | 8 | |

INDIVIDUALS WITH DISABILITIES EDUCATION ACT—Continued

[APPLICATION NOTICE FOR FISCAL YEAR 2002]

| CFDA No. and name | Applications available | Application deadline date | Estimated range of awards | Estimated average size of awards | Maximum award (per year)* | Project period | Estimated number of awards | Page limit** |
|---|---|---|---|---|---|---|---|---|
| Development and Intervention. | | | | | | | | |
| 84.324T Model Demonstration Projects for Children with Disabilities. | 06/19/02 | 07/22/02 | 115,000–180,000 | 150,000 | $180,000 | Up to 48 mos. | ..... | 50 |
| Focus Area 1—Model Demonstration Projects to Support Quality Educational and Transition and Aftercare Programs in the Justice System for Youth with Disabilities. | ..... | ..... | ..... | ..... | ..... | ..... | 4 | |
| Focus Area 2—Strengthening Childcare Infrastructures for Infants, Toddlers, and Preschoolers with Disabilities from Underserved Families and Communities. | ..... | ..... | ..... | ..... | ..... | ..... | 2 | |
| Focus Area 3—Agency Participation in Transition. | ..... | ..... | ..... | ..... | ..... | ..... | 2 | |
| Focus Area 4—Assessments and Accountability. | ..... | ..... | ..... | ..... | ..... | ..... | 2 | |

*Consistent with EDGAR (34 CFR 75.104(b)), we will reject any application that proposes a project funding level for any year that exceeds the stated maximum award amount for that year.

**Applicants must limit the Application Narrative, Part III of the Application, to the page limits noted above. Please refer to the ''Page Limit'' requirements and the page limit standards described in the ''General Requirements'' section included under each priority description. We will reject and will not consider an application that does not adhere to this requirement.

**Note:** The Department of Education is not bound by any estimates in this notice.

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**Program Authority:** 20 U.S.C. 1405, 1461, 1472, 1474, and 1487.

Dated: June 13, 2002.

**Andrew J. Pepin,**

*Acting Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 02–15395 Filed 6–18–02; 8:45 am]

BILLING CODE 4000–01–P


Federal Register

**Wednesday,**
**June 19, 2002**

## Part VI

# Environmental Protection Agency

**40 CFR Part 180**

**Pesticide Tolerance Nomenclature Changes; Technical Amendment; Final Rule**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

**[OPP–2002–0043; FRL–6835–2]**

## Pesticide Tolerance Nomenclature Changes; Technical Amendment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; technical amendment.

**SUMMARY:** This document makes minor revisions to the terminology of certain commodity terms listed under 40 CFR part 180, subpart C. EPA is taking this action to establish a uniform listing of the commodity terms.

**DATES:** This document is effective June 19, 2002.

**FOR FURTHER INFORMATION CONTACT:** By mail: Hoyt L. Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9368; and e-mail address: *jamerson.hoyt@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

| Categories | NAICS codes | Examples of potentially affected entities |
|---|---|---|
| Industry | 111<br>112<br>311<br><br>32532 | Crop production<br>Animal production<br>Food manufacturing<br>Pesticide manufacturing |

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at *http://www.epa.gov/*. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/*. A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html*, a beta site currently under development. To access an electronic copy of the commodity data base entitled *Food and Feed Commodity Vocabulary* go to: *http://www.epa.gov/pesticides/foodfeed/*.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–2002–0043. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

### II. Background

*A. What Does this Technical Amendment Do?*

EPA's Office of Pesticide Programs (OPP) has developed a commodity vocabulary data base entitled *Food and Feed Commodity Vocabulary*. The data base was developed to consolidate all the major OPP commodity vocabularies into one standardized vocabulary. As a result, all future pesticide tolerances issued under 40 CFR part 180 will use the ''preferred commodity term'' as listed in the aforementioned data base. This final rule is the first in a series of documents revising the terminology of commodity terms listed under 40 CFR part 180. This revision process will establish a uniform presentation of existing commodity terms under 40 CFR part 180. In this rule, EPA is making the following format changes to the terminology of commodity terms in 40 CFR part 180 to the extent the terminology is not already in this format:

1. The first letter of the commodity term is capitalized. All other letters, including the first letter of proper names, are changed to lower case.

2. Commodity terms are listed in the singular although there are the following exceptions: including the terms ''leaves'', ''roots'', ''tops'', ''greens'', ''hulls'', ''vines'', ''fractions'', ''shoots'', and ''byproducts''.

3. Hyphens are removed from commodity terms. Example - ''Cattle, meat by-products'' is revised to read ''Cattle, meat byproducts''.

4. Commodity terms are amended so that generic terms, such as ''corn'', ''pea'', ''cattle'', precede modifying terms, such as ''field'', ''dry'', ''summer''. Examples - ''Corn, field''; ''Pea, dry''; and ''Squash, summer'', not ''field corn'', ''dry pea'', or ''Summer squash''.

5. Abbreviated terms are replaced with the appropriate commodity terms. Examples - ''Hog MBYP'' is replaced with ''hog, meat byproducts''. K+CWHR is replaced with ''kernal plus cob with husks removed''.

6. Parenthesis are replaced with commas. Example - ''Cattle meat byproducts (except kidney)'' is replaced with ''Cattle, meat byproducts, except kidney''.

7. Combined commodity entries are listed separately. Examples - ''Goat, kidney and liver'' is revised to read as follows: ''Goat, kidney'', and ''Goat, liver''.

''Fat of cattle, goat, horse and sheep'' is revised to read as follows: ''Cattle, fat'', ''Goat, fat'', ''Horse, fat;'', ''Sheep, fat''

8. Crop group terms are revised to standardize with the ''Food and Feed Vocabulary''. Examples:

i. ''Stonefruit group'' is revised to read ''Fruit, stone, group''.

ii. ''Cucurbit Vegetables Crop Group'' is revised to read ''Vegetable, cucurbit, group''.

iii. ''Brassica (cole) leafy vegetables'' is revised to read ''Vegetable, brassica leafy, group''.

*B. Why is this Technical Amendment Issued as a Final Rule?*

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's technical amendment final without prior proposal and opportunity for comment, because today's action revises commodity terms listed under 40 CFR part 180, subpart C, in a manner that clearly will have no impact on the meaning of the tolerance regulations. For example, today's action revises commodity terms so that most are in singular (e.g., ''peach'') instead of the plural (e.g., ''peaches''). A complete description of the types of changes that are being made has been provided above. EPA has determined that there is no need to public comment on such ministerial changes and thus that there is good cause under 5 U.S.C. 553(b)(B) for dispensing with public comment. While EPA believes that it has correctly identified all instances where these above-listed revisions need to be made, the Agency would appreciate readers notifying EPA of discrepancies, omissions, or technical problems by submitting them to the address or e-mail under **FOR FURTHER INFORMATION CONTACT.** These will be corrected in a future rule.

## III. Regulatory Assessment Requirements

This final rule implements technical amendments to the Code of Federal Regulations which have no substantive impact on the underlying regulations, and it does not otherwise impose or amend any requirements. As such, the Office of Management and Budget (OMB) has determined that a technical amendment is not a ''significant regulatory action'' subject to review by OMB under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since the action does not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

## IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

## List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 11, 2002.

**Marcia Mulkey,**

*Director, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 374.

## Subpart C—[Amended]

2. In the following table, change the term exactly as it appears in the ''Existing Term'' column to read like the term in the ''New Term'' column

wherever it may appear in subpart C, and realphabetize the new term where appropriate:

| Existing Term | New Term |
|---|---|
| Alfalfa (forage) | Alfalfa, forage |
| Alfalfa hay | Alfalfa, hay |
| Alfalfa (hay) | Alfalfa, hay |
| Almond hull | Almond, hulls |
| Almond hulls | Almond, hulls |
| Almonds hulls | Almond, hulls |
| Almonds | Almond |
| Apples | Apple |
| Apple pomace, wet | Apple, wet pomace |
| Apple, pomace, wet | Apple, wet pomace |
| Apple pomace (wet) | Apple, wet pomace |
| Apricots (dried) | Apricot, dried |
| Apricots | Apricot |
| Artichokes | Artichoke |
| Avocados | Avocado |
| Bamboo shoots | Bamboo, shoots |
| Banana (Pulp) | Banana, pulp |
| Barley (straw) | Barley, straw |
| Barley, pearled | Barley, pearled barley |
| Bananas | Banana |
| Beans | Bean |
| Beets | Beet |
| Blackberries | Blackberry |
| Blueberries | Blueberry |
| Boysenberries | Boysenberry |
| Brazil nut | Nut, brazil |
| Bulb vegetables | Vegetable, bulb, group |
| Butternuts | Butternut |
| (CA only) | , CA only |
| Canola meal | Canola, meal |
| Canola seed | Canola, seed |
| Cantaloupes | Cantaloupe |
| Cereal grains | Grain, cereal |
| Citrus citron | Citron, citrus |
| Citrus fruit | Fruit, citrus |
| Citrus molasses | Citrus, molasses |
| Citrus oil | Citrus, oil |
| Clover (forage) | Clover, forage |
| Clover hay | Clover, hay |
| Clover (hay) | Clover, hay |
| Clover, hay, for seed | Clover, hay, grown for seed |
| Cottonseed, hulls | Cotton, hulls |
| Cottonseed hulls | Cotton, hulls |
| Cottonseed soapstock | Cotton, seed, soapstock |
| Cottonseed meal | Cotton, meal |
| Cottonseed, meal | Cotton, meal |
| Cottonseed meals | Cotton, meal |
| Cottonseed, meals | Cotton, meal |
| Cottonseed, refined oil | Cotton, refined oil |
| Cranberries | Cranberry |
| Cucumbers | Cucumber |
| Currants | Currant |
| Dewberries | Dewberry |
| Eggs | Egg |
| Eggplants | Eggplant |
| (exc. kidney and liver) | , except kidney and liver |
| (exc. kidney, liver) | , except kidney and liver |
| (exc. kidney) | , except kidney |
| (exc kidney, liver) | , except kidney and liver |
| (except kidney, liver) | , except kidney and liver |
| (except kidney and liver) | , except kidney and liver |
| except kidney and liver | , except kidney and liver |
| ; except kidney and liver | , except kidney and liver |
| (except kidney) | , except kidney |
| except kidney | , except kidney |
| (except liver) | , except liver |
| except liver | , except liver |
| (exc. liver) | , except liver |
| (except liver and kidney) | , except kidney and liver |
| Field corn, forage | Corn, field, forage |
| Field corn, grain | Corn, field, grain |
| Field corn, stover | Corn, field, stover |
| Field, corn, forage | Corn, field, forage |
| Field, corn, grain | Corn, field, grain |
| Forage grasses | Grass, forage |
| Forage legumes | Legume, forage |
| Fruiting vegetables | Vegetable, fruiting |
| Flax straw | Flax, straw |
| (fresh) | , fresh |
| (fresh prune) | , prune, fresh |
| (fresh, prunes) | prune, fresh |
| Fruits | Fruit |
| Goats | Goat |
| Grapes | Grape |
| Grasses | Grass |
| Grain crop | Grain, crop |
| Grain crops | Grain, crop |
| Grain, crops | Grain, crop |
| Gooseberries | Gooseberry |
| Grape juice | Grape, juice |
| Grape, raisins | Grape, raisin |
| Grapefruits | Grapefruit |
| Guavas | Guava |
| Hickory nuts | Nut, hickory |
| Honeydew melons | Melon, honeydew |
| Honeydews | Melon, honeydew |
| Hop cones, dried | Hop, dried cone |
| Hogs | Hog |
| Hops | Hop |
| Hop, dried | Hop, dried cones |
| Horses | Horse |
| (hulls) | , hulls |
| Lemons | Lemon |

| Existing Term | New Term |
|---|---|
| Leeks | Leek |
| Legumes, forage | Legume, forage |
| Limes | Lime |
| Loganberries | Loganberry |
| Mangoes | Mango |
| Melons | Melon |
| meat by product | meat byproducts |
| meat byproduct | meat byproducts |
| meat by-products | meat byproducts |
| (mbyp) | , meat byproducts |
| mbyp | meat byproducts |
| Mbyp | meat byproducts |
| Mushrooms | Mushroom |
| Nectarines | Nectarine |
| Nuts | Nut |
| Olives | Olive |
| Onions (dry bulb) | Onion, dry bulb |
| Onion, dry | Onion, dry bulb |
| Onions, bulb | Onion, dry bulb |
| Onions, green | Onion, green |
| Onions | Onion |

| Existing Term | New Term |
|---|---|
| Peaches | Peach |
| Pears | Pear |
| Peas | Pea |
| Peppers (bell) | Pepper, bell |
| Peppers, non-bell | Pepper, nonbell |
| Peppers | Pepper |
| Peppermint tops | Peppermint, tops |
| Persimmons | Persimmon |
| Pimentos | Pimento |
| Pineapple fodder | Pineapple, fodder |
| Pineapple forage | Pineapple, forage |
| Pistachios | Pistachio |
| Pomegranates | Pomegranate |
| (POST-H) | , postharvest |
| (post-h) | , postharvest |
| Potato chips | Potato, chips |
| Potatoes | Potato |
| Pumpkins | Pumpkin |
| Raspberries | Raspberry |
| (seed) | , seed |
| (seed treatment) | , seed treatment |

| Existing Term | New Term |
|---|---|
| Strawberries | Strawberry |
| Rice bran | Rice, bran |
| Rice grain | Rice, grain |
| Rice hulls | Rice, hulls |
| Rice polishings | Rice, polished rice |
| Rice straw | Rice, straw |
| Sainfoin hay | Sanfoin, hay |
| Salsify tops | Salsify, tops |
| Spearmint tops | Spearmint, tops |
| Summer squash | Squash, summer |
| Tangerines | Tangerine |
| Tomatoes | Tomato |
| Walnuts | Walnut |
| Watermelons | Watermelon |
| Youngberries | Youngberry |

3. In the following table change the term exactly as it appears in the ''Existing Term'' column to read like the term in the ''New Term'' column wherever it appears in subpart C, and realphabetize the new term where appropriate:

| Existing Term | New Term |
|---|---|
| Alfalfa, hay, for seed | Alfalfa, hay, grown for seed |
| Animal feed, nongrass group (except alfalfa) | Animal feed, nongrass, group, except alfalfa |
| Bean (succulent form) | Bean, succulent |
| Bean, snap (succulent form) | Bean, snap, succulent |
| Brassica (cole) leafy vegetables | Vegetable, brassica, leafy, group |
| Brassica (cole) leafy vegetables group | Vegetable, brassica, leafy, group |
| Brassica, head and stem, subgroup, excluding cabbage | Brassica, head and stem, subgroup, except cabbage |
| Brassica, head and stem subgroup (5-A) | Brassica, head and stem, subgroup |
| Brassica, head and stem, crop subgroup 5-A | Brassica, head and stem, subgroup |
| Brassica, head and stem subgroup | Brassica, head and stem, subgroup |
| Brassica, head and stem | Brassica, head and stem, subgroup |
| Cereal Grains (excluding sweet corn), Bran | Grain, cereal, bran, except sweet corn |
| Cereal Grains (excluding sweet corn), Forage | Grain, cereal, forage, except sweet corn |
| Cereal Grains (excluding sweet corn), Grain | Grain, cereal, grain, except sweet corn |
| Cereal Grains (excluding sweet corn), Hay | Grain, cereal, hay, except sweet corn |

| Existing Term | New Term |
|---|---|
| Cereal Grains (excluding sweet corn), Hulls | Grain, cereal, hulls, except sweet corn |
| Cereal Grains (excluding sweet corn), Stover | Grain, cereal, stover, except sweet corn |
| Cucurbit vegetable group | Vegetable, cucurbit, group |
| Cucurbit Vegetables Crop Group | Vegetable, cucurbit, group |
| Cucurbit vegetables group | Vegetable, cucurbit, group |
| Cucurbits vegetable group | Vegetable, cucurbit, group |
| Cucurbit vegetables | Vegetable, cucurbit, group |
| Cucurbits vegetables | Vegetable, cucurbit, group |
| Citrus pulp, dehydrated | Citrus, dried pulp |
| (K=CWHR) | , kernel plus cob with husks removed |
| (K=kwhr) | , kernel plus cob with husks removed |
| (K+CWHR) | , kernel plus cob with husks removed |
| (K + CWHR) | , kernel plus cob with husks removed |
| , K + CWHR | , kernel plus cob with husks removed |
| (kernel plus cob with husks removed) | , kernel plus cob with husks removed |
| Oregano, Mexican, leaves | Oregano, mexican, leaves |
| Pepper, (non-bell[1]) | Pepper, nonbell[1] |
| Potato waste from processing | Potato, processed potato waste |
| Root and tuber vegetables | Vegetable, root and tuber, group |
| Root and tuber vegetables group | Vegetable, root and tuber, group |
| Stone fruit crop group | Fruit, stone, group |
| Stone fruit | Fruit, stone |
| Stone fruits (Crop Group 12) | Fruit, stone, group |
| Stone fruits group | Fruit, stone, group |
| Stonefruit group | Fruit, stone, group |
| Stone Fruits | Fruit, stone |
| Stone fruit crop group (except plums and prunes) | Fruit, stone, group, except plum and fresh prune plum |
| Stone fruit, except plum, prune, fresh | Fruit, stone, except fresh prune plum |

4. In § 180.183, paragraph (a)(2)(ii) is revised to read as follows:

**§ 180.183 O,O-Diethyl S-[2-(ethylthio)ethyl] phosphorodithioate; tolerances for residues.**

(a) * * *

(2) * * *

(ii) 5 parts per million in pineapple, bran when present therein as a result of the application of the insecticide in the production of pineapple.

* * * * *

5. Section 180.236 is amended by deleting from the table the entries for ''Cattle, goats, hogs, horses and sheep, kidney and liver'' and by alphabetically inserting the following entries:

**§ 180.236 Triphenyltin hydroxide; tolerances for residues.**

* * * * *

| Commodity | Parts per million |
|---|---|
| Cattle, kidney | 0.05 |
| Cattle, liver | 0.05 |
| Goat, kidney | 0.05 |
| Goat, liver | 0.05 |
| Hog, kidney | 0.05 |
| Hog, liver | 0.05 |
| Horse, kidney | 0.05 |
| Horse, liver | 0.05 |
| * * * * | * |
| Sheep, kidney | 0.05 |
| Sheep, liver' | 0.05 |
| * * * * | * |

**§§ 180.110, 180.163, and 180.379 [Amended]**

6. Sections 180.110(a), 180.163(a), and 180.379(a)(1) are amended by changing the term ''Winter squash'' to read ''Squash, winter'' and realphabetizing

the new term and entry where appropriate.

7. In § 180.303, the table to pararaph (a)(1) is amended by changing the term ''Winter Squash'' to read ''Squash, winter'' by realphabetizing the new term, and by revising paragraph (a)(2) to read as follows:

**§ 180.303 Oxamyl; tolerances for residues.**

(a) * * *

(2) A tolerance of 6 parts per million is established for residues of the insecticide oxamyl (methyl *N,N*-dimethyl-*N*-[(methylcarbamoyl)oxy]-1-thiooxamimidate) in pineapple, bran as a result of application of the insecticide to growing pineapple.

* * * * *

**§ 180.414 [Amended]**

8. The table § 180.414(a)(1) are amended by changing and term ''Lima beans'' to read ''Bean, lima'' and by realphabetizing the new term and entry where appropriate.

9. In § 180.409(a)(1) amend the table by removing the entries ''Cattle, kidney and liver''; ''Goats, kidney and liver''; ''Hogs, kidney and liver''; ''Horses, kidney and liver''; and ''Sheep, kidney and liver'' and by adding alphabetically the following entries to the table:

**§ 180.409 Pirimiphos-methyl; tolerances for residues.**

(a) * * *

(1) * * *

| Commodity | Parts per million |
|---|---|
| * * * * | * |
| Cattle, kidney | 2.0 |
| Cattle, liver | 2.0 |
| * * * * | * |
| Goat, kidney | 2.0 |
| Goat, liver | 2.0 |
| * * * * | * |
| Hog, kidney | 2.0 |
| Hog, liver | 2.0 |
| * * * * | * |
| Horse, kidney | 2.0 |
| Horse, liver | 2.0 |
| * * * * | * |
| Sheep, kidney | 2.0 |
| Sheep, liver' | 2.0 |
| * * * * | * |

10. The table to § 180.410(a) is amended by removing the entry for ''Apple pomace (wet and dry)'' and by adding alphabetically entries for ''Apple, dry pomace'' and ''Apple, wet pomace'' as follows:

**§ 180.410 Triademifon; tolerances for residues.**

(a) * * *

| Commodity | Parts per million |
|---|---|
| * * * * | * |
| Apple, dry pomace | 4.0 |
| Apple, wet pomace | 4.0 |
| * * * * | * |

* * * * *

11. The table to § 180.412(a) is amended by removing the entry for ''Apple pomace, wet and dry'' and by adding alphabetically entries for ''Apple, dry pomace'' and ''Apple, wet pomace'' to read as follows:

**§ 180.412 Sethoxydim; tolerances for residues.**

(a)* * *

| Commodity | Parts per million | Expiration/ Revocation Date |
|---|---|---|
| * * * * *. | | |
| Apple, dry pomace | 0.8 | None |
| Apple, wet pomace | 0.8 | None |
| * * * * | | * |

* * * * *

12. In § 180.421 the table to paragraph (a)(1) is amended by removing the entry for ''Apple pomace (wet and dry)'' and by adding alphabetically entries for ''Apple, dry pomace'' and ''Apple, wet pomace'' to read as follows:

**§ 180.421 Fenarimol; tolerances for residues.**

(a) * * *

(1) * * *

| Commodity | Parts per million |
|---|---|
| * * * * | * |
| Apple, dry pomace | 2.0 |
| Apple, wet pomace | 2.0 |
| * * * * | * |

* * * * *

13. In § 180.423 amend the table by removing the entries ''Cattle, kidney and liver''; ''Goat, kidney and liver''; ''Hog, kidney and liver''; ''Horse, kidney and liver''; and ''Sheep, kidney and liver'' and by adding alphabetically new entries as follows:

**§ 180.423 Fenridazon; potassium salt; tolerances for residues.**

* * * * *

| Commodity | Parts per million |
|---|---|
| * * * * | * |
| Cattle, kidney | 1.0 |
| Cattle, liver | 1.0 |
| * * * * | * |
| Goat, kidney | 1.0 |
| Goat, liver | 1.0 |
| * * * * | * |
| Hog, kidney | 1.0 |
| Hog, liver | 1.0 |
| * * * * | * |
| Horse, kidney | 1.0 |
| Horse, liver | 1.0 |
| * * * * | * |
| Sheep, kidney | 1.0 |
| Sheep, liver' | 1.0 |
| * * * * | * |

14. Section 180.443(a) is amended by removing from the table the entry for ''Apple pomace (wet and dry)'', by adding alphabetically an entry for ''Apple, dry pomace'' and by revising the entry for ''Apple, wet pomace'' to read as follows:

**§ 180.443 Myclobutanil; tolerances for residues.**

(a) * * *

| Commodity | Parts per million |
|---|---|
| * * * * | * |
| Apple, dry pomace | 5.0 |
| Apple, wet pomace | 5.0 |
| * * * * | * |

* * * * *

15. Section 180.564 is amended by removing from the table in paragraph (a) the entries for ''Cattle, goat, horse, sheep and hog fat''; ''Cattle, goat, horse, sheep and hog meat''; and ''Cattle, goat, horse, sheep and hog meat byproducts''; and by adding the following entries alphabetically to the table:

**§ 180.564 Indoxacarb; tolerances for residues.**

(a) * * *

| Commodity | Parts per million |
|---|---|
| * * * * | * |
| Cattle, fat | 0.75 |
| Cattle, meat | 0.03 |
| Cattle, meat byproducts | 0.02 |
| * * * * | * |
| Goat, fat | 0.75 |
| Goat, meat | 0.03 |
| Goat, meat byproducts | 0.02 |
| Hog, fat | 0.75 |
| Hog, meat | 0.03 |
| Hog, meat byproducts | 0.02 |
| Horse, fat | 0.75 |
| Horse, meat | 0.03 |
| Horse, meat byproducts | 0.02 |
| * * * * | * |
| Sheep, fat | 0.75 |
| Sheep, meat | 0.03 |
| Sheep, meat byproducts | 0.02 |
| * * * * | * |

**§§ 180.455,180.518 and 180.566 [Amended]**

16. Sections 180.455, and 180.518(e) are amended by changing the term for

''Wine grapes'' in the table to both sections to read ''Grape, wine'' and in the table to § 180.566(a) is amended by changing the term ''Wine grapes[1]'' to read ''Grape, wine[1]'', and by realphabetizing the new term.

[FR Doc. 02–15332 Filed 6–18–02; 8:45 am]
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## REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

## RULES GOING INTO EFFECT JUNE 19, 2002

**CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD**

Government in the Sunshine Act; implementation; published 5-20-02

**ENVIRONMENTAL PROTECTION AGENCY**

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Alfalfa, etc.; nomenclature changes; technical amendment; published 6-19-02

**INTERIOR DEPARTMENT**

**Surface Mining Reclamation and Enforcement Office**

Permanent program and abandoned mine land reclamation plan submissions:

Kentucky; published 6-19-02

**TRANSPORTATION DEPARTMENT**

**Federal Aviation Administration**

Airworthiness directives:

MD Helicopters Inc.; published 5-15-02

**TREASURY DEPARTMENT**

**Comptroller of the Currency**

International banking activities:

Capital equivalency deposits; published 6-19-02

**TREASURY DEPARTMENT**

**Internal Revenue Service**

Procedure and administration:

Return information disclosure to Agriculture Department officers and employees for statistical purposes and related activities; published 6-19-02

## COMMENTS DUE NEXT WEEK

**AGRICULTURE DEPARTMENT**

**Animal and Plant Health Inspection Service**

Interstate transportation of animals and animal products (quarantine):

Brucellosis in cattle and bison—

Rodeo bulls; testing requirement eliminated; comments due by 6-24-02; published 4-25-02 [FR 02-10110]

**AGRICULTURE DEPARTMENT**

**Rural Utilities Service**

Electric loans:

RUS operational controls; exceptions under Section 306E of the RE Act; comments due by 6-24-02; published 5-24-02 [FR 02-13102]

**AGRICULTURE DEPARTMENT**

Highly erodible land and wetland conservation:

Categorical minimal effect exemptions; comments due by 6-24-02; published 4-23-02 [FR 02-09700]

**COMMERCE DEPARTMENT**

**National Oceanic and Atmospheric Administration**

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Pacific halibut and red king crab; comments due by 6-27-02; published 5-28-02 [FR 02-13255]

Marine mammals:

Sea turtle conservation—

Shrimp trawling requirements; Atlantic waters; turtle excluder devices; comments due by 6-24-02; published 5-30-02 [FR 02-13564]

**COMMODITY FUTURES TRADING COMMISSION**

Commodity Futures Modernization Act; implementation:

Trading facilities and clearing organizations; new regulatory framework; amendments; comments due by 6-25-02; published 4-26-02 [FR 02-10031]

**DEFENSE DEPARTMENT**

Acquisition regulations:

Berry Amendment; codification and modification; comments due by 6-25-02; published 4-26-02 [FR 02-10094]

Foreign military sales customer involvement; comments due by 6-25-02; published 4-26-02 [FR 02-10093]

Purchases from required source; competition requirements; comments due by 6-25-02; published 4-26-02 [FR 02-10097]

Federal Acquisition Regulation (FAR):

Compensation cost principle; comments due by 6-24-02; published 4-23-02 [FR 02-09665]

**DEFENSE DEPARTMENT**

**Engineers Corps**

Natural disaster procedures; preparedness, response, and recovery activities; comments due by 6-28-02; published 4-25-02 [FR 02-10124]

**ENVIRONMENTAL PROTECTION AGENCY**

Air pollutants, hazardous; national emission standards:

Metal furniture surface coating operations; comments due by 6-24-02; published 4-24-02 [FR 02-07224]

Miscellaneous organic chemical and coating manufacturing; comments due by 6-28-02; published 5-1-02 [FR 02-10728]

Municipal solid waste landfills; comments due by 6-24-02; published 5-23-02 [FR 02-12845]

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:

Wisconsin; comments due by 6-28-02; published 5-29-02 [FR 02-13112]

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 6-24-02; published 5-23-02 [FR 02-12839]

Colorado; comments due by 6-24-02; published 5-23-02 [FR 02-12965]

Illinois; comments due by 6-28-02; published 5-29-02 [FR 02-13246]

Maryland; comments due by 6-27-02; published 5-28-02 [FR 02-13110]

Nebraska; comments due by 6-28-02; published 5-29-02 [FR 02-13248]

Pennsylvania; comments due by 6-24-02; published 5-23-02 [FR 02-12837]

Air quality planning purposes; designation of areas:

Alaska; comments due by 6-24-02; published 5-23-02 [FR 02-12966]

Hazardous waste:

Land disposal restrictions—

Chemical Waste Management, Inc., Kettleman City, CA; treatment variance; comments due by 6-27-02; published 5-28-02 [FR 02-13114]

Chemical Waste Management, Inc., Kettleman City, CA; treatment variance; comments due by 6-27-02; published 5-28-02 [FR 02-13115]

Solid wastes:

Hazardous oil-bearing secondary materials from petroleum refining industry and other materials processed in gasification system to produce synthesis gas; comments due by 6-24-02; published 3-25-02 [FR 02-07097]

Water pollution; effluent guidelines for point source categories:

Meat and poultry products processing facilities; comments due by 6-25-02; published 4-24-02 [FR 02-10040]

**FEDERAL COMMUNICATIONS COMMISSION**

Digital television stations; table of assignments:

California; comments due by 6-24-02; published 5-15-02 [FR 02-11980]

Georgia; comments due by 6-24-02; published 5-10-02 [FR 02-11672]

Michigan; comments due by 6-24-02; published 5-9-02 [FR 02-11606]

New York; comments due by 6-24-02; published 5-9-02 [FR 02-11607]

Texas; comments due by 6-24-02; published 5-9-02 [FR 02-11609]

**FEDERAL TRADE COMMISSION**

Telemarketing sales rule

User fees; comments due by 6-28-02; published 5-29-02 [FR 02-13320]

**GENERAL SERVICES ADMINISTRATION**

Federal Acquisition Regulation (FAR):

Compensation cost principle; comments due by 6-24-02; published 4-23-02 [FR 02-09665]

**INTERIOR DEPARTMENT**

**Fish and Wildlife Service**

Endangered and threatened species:

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**S. 1372/P.L. 107–189**

Export-Import Bank Reauthorization Act of 2002 (June 14, 2002; 116 Stat. 698)

**Last List June 14, 2002**

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